RNI No. MAHBIL /2009/31744
Reg. No. MH/MR/South-318/2013-15

महाराष्ट्र शासन राजपत्र

भाग एक–ल

वर्ष ६, अंक २३] गुरुवार ते बुधवार, ऑगस्ट २१-२७, २०१४/श्रावण ३०-भाद्र ५, शके १९३६ [पृष्ठे ८७, किंमत : रुपये २३.००

प्राधिकृत प्रकाशन

(केंद्रीय) औद्योगिक विवाद अधिनियम व मुंबई औद्योगिक संबंध अधिनियम यांखालील (भाग एक, चार-अ, चार-ब आणि चार-क यांमध्ये प्रसिद्ध केलेल्या अधिसूचना, आदेश व निवाडे यांव्यतिरिक्त) अधिसूचना, आदेश व निवाडे.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 242 OF 1995.—Shri Yeshwant Namdeo Phalke, At Post Yayaphale, Tal. Tasgaon, Dist. Sangli.—*Petitioner*—*Versus*—Divisional Traffic (Superintendent), Maharashtra State Road Transport Corporation, Sangli Division, Sangli.—*Respondent.*

In the matter of revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Appearances.— Shri C. A. Jadhav, Advocate for Petitioner.
Shri A. N. Kulkarni, Law Officer for Respondent.

Judgment

This is a revision by an employee challenging legality of judgment and order passed in Complaint (ULP) No. 318 of 1989 by Labour Court, Sangli whereby, relief of reinstatement with continuity of service and full back wages is refused by dismissing his complaint.

2. Admittedly, present petitioner (hereinafter referred to as the Complainant) was working under present Respondent (hereinafter referred to as the Corporation) as a conductor since many years. He was on duty on 9th April 1987 on Rajewadi-Sangli route. His bus was checked at Atpadi Stand by Checking Squad. The Squad made a report to higher authority that the Complainant collected fare from 10 passengers but did not issue tickets to them. The Corporation then served chargesheet dated 29th April 1987 upon the Complainant alleging misconducts under items 7(a), 7(c), 7(d), 12(b) and 35-B of its Discipline and Appeal Procedure mainly alleging non-issuance of tickets despite collection of fare there of from 10 passengers. The Complainant denied the charges and then an enquiry took place. The Enquiry Officer held that all charges levelled against the Complainant are proved. Consequently, the Complainant was dismissed from service with effect from 4th December 1989.

3. It is case of the Complainant that the bus was over-crowded, was checked prior to its arrival at destination and respective passengers never tendered fair amount to him. Even then the chargesheet was served upon him and farse of enquiry was made. The charges are totally vague and false. The enquiry is contrary to principles of natural justice and the Enquiry Officer acted as Prosecutor-*cum*-Judge. There was no material on record before the Enquiry Officer to hold him guilty. As such, findings of the Enquiry Officer are totally perverse. Finally, it is alleged that his dismissal is an unfair labour practice under items 1(a), (b), (d), (f) and (g) of Schedule IV of the M.R.T.U. and P.U.L.P. Act. Consequently, the Complainant prayed for reinstatement with continuity of service and full back wages.

4. The Corporation filed its written statement at Exh. C-6 contending that the Checking Squad found non-issuance of tickets by the Complainant to 10 passengers despite collection of fare amount from them and hence rightly chargesheeted. The enquiry is fair and proper and principles of natural justices were properly followed. Complainant's representative was present during the enquiry. Statements of passengers were recorded who stated that they paid fare to the Complainant but no tickets were issued to them. All charges were proved in the Enquiry and findings of the Enquiry Officer are legal and proper. Proved misconducts are serious and hence punishment of dismissal is legal and proper. Thus, the Corporation justified its action as well as punishment and finally prayed for dismissal of the complaint.

5. Considering rival pleadings, learned Labour Court framed issued at Exh. O-3 and the parties went to the trial. The Complainant accepted that the enquiry is legal except the findings. The Complainant produced copies of Report, chargesheet, enquiry report and termination order with list Exh. U-4. The Corporation produced entire papers alongwith Complainant's default card, with list Exh. C-8. None of the parties led oral evidence.

6. Learned Labour Court, on perusal of documentary evidence and hearing both parties, observed that the Complainant has admitted factual position in his spot statement and two statements of the passengers clearly established non-issuance of tickets despite collection of fare. It then held that findings of the Enquiry Officer are legal and proper. As regards, punishment of dismissal, it held that the same is not an unfair labour practice. Finally, it dismissed the complaint by judgment and order dated 28th March 1994. The same is challenged in this Revision.

7. The Complainant filed written arguments (Exh. U-9) whereas, learned Law Officer of the Corporation made oral submissions. Considering rival submissions, following points arise for my determination :—

(*i*) Whether impugned finding that findings of the Enquiry Officer are legal and proper ? is justifiable ?

(*ii*) Whether punishment of dismissal is an unfair practice ?

(*iii*) What order ?

8. My findings, on above points, are as under :—

(*i*) Yes.

(*ii*) No.

(*iii*) The revision application is dismissed.

Reasons

9. This being a revision under section 44 of the M.R.T.U. and P.U.L.P. Act, it is not necessary to scrutinise rival contentions meticulously. The only material question is whether documents on record are incapable of supporting impugned decision. In other words, whether impugned decision is perverse of justifiable ?

10. It is submitted in written arguments (Exh. U-9) made on behalf of the Complainant that the bus was over-crowded at the relevant time, there were many students, passengers and pass-holders. There was no material on record to hold the Complainant guilty and the Enquiry Officer acted as a prosecutor-*cum*-judge.

11. Law Officer Shri Kulkarni submitted that statements of two passengers were recorded by the Checking Squad and they have categorically stated non-issuance of tickets despite collection of fare by the Complainant. Besides, the Complainant has admitted non-issuance of tickets in his spot statement. The Labour Court has recorded a finding of fact, the same is proper one and evidence cannot be re-appreciated in this revision. He then pointed out that the Complainant ought to have issued tickets to the passangers after collecting fare and then and then only should have collected fare from other passangers. As such, findings of the Enquiry Officer cannot be branded as perverse by any stretch of imagination.

12. It appears on perusal of impugned decision that there were 10 passengers without tickets when the bus was checked. The Complainant has admitted in the sopt statement that he collected fare of Rs. 2.50 each from 7 passengers, Rs. 1.40 each from two passengers and Rs. 1.30 towards half ticket of a minor passenger. However, he has not issued tickets to them till the bus was checked. Besides, statements of those passengers were recorded in his presence. Consequently, it cannot be accepted that he is innocent. His plea of being mentally disturbed at the relevant timve, is after thought. If the bus was really over-crowded, he could be unable to issue tickets to some passengers but the facts are otherwise. He has collected fare but has not issued tickets. It is not necessary to examine the passengers in the enquiry as standard of proof in a domestic enquiry is of preponderance of probabilities. I, therefore, find that learned Labour Court has rightly endorsed findings the Enquiry Officer. Accordingly, I answer Point No. 1 in the affirmative.

13. As regards punishment, Advocate for the Complainant has relied upon decision in *Bengalore Metropolital Transport Corporation, Bangalore* V/s. *Channannjarhic reported in 1999(4) L.L. Notes at page 1054 (Karnataka H. C.), Karnatak State Road Transport Corporation* V/s. *Shivakumar reported in 1999(83) F.L.R. at page 167 (Karn. H. C.)* and *Charan Transport Corpn. Ltd.* V/s. *Presiding Officer, Labour Court, Coimbatore reported in 1999(3) LLN at page 329 (Mad. H.C.).* It is then submitted that punishment of dismissal is shockingly disproportionate.

14. Law Officer Shri Kulkarni replied that non-issuance of ticket is totally different from failure to issue ticket after collection of fare. The later events speaks of dis-honesty whereas the earlier of negligence. Decisions relied by the Complainant are regarding non-issuance of tickets and nothing else. As such, facts and observations therein are inapplicable here. He then submitted that a conductor holds a post of trust and confidence and is the only source of income for the Corporation. Dis-honesty, fraud and misappropriation cannot be said as minor or technical misconduct. Therefore, punishment of dismissal is legal and proper. He further added that the Complainant was punished on 9 grounds for previous misconducts and possesesses bad service-record. He relied on the decision of Hon'ble Apex Court in *Janata Bank* V/s. *Secretary reported in 2000 II CLR at page 568.* Finally, he submitted that the Revision Application be dismissed.

15. Misconduct under item 12(b) of Corporation's Discipline and Appeal Procedure pertains to fraud, dishonesty and misappropriation of all kinds. Misconduct under item 7(c) pertains to non-issuance of ticket after collection of fare. The decisions relied by Advocate for the Complainant pertain to simply non-issuance of tickets and in that background, it is held that punishment of dismissal is unjust and unfair. In the present case, it is not a simple case of non-issuance of tickets but is coupled with recovery of fare thereof. If the bus would not have been checked, the Complainant would have certainly misappropriated that much amount collected from the passengers. Thus, proved misconduct cannot be said to be a technical or minor one. No prudent employer will employ an employee who is guilty of fraud, dishonesty and misappropriation. It is held in Janata Bank's case (referred above) that when misappropriation is proved, may be for small or large amount, there is no question of showing uncalled sympathy and reinstating the employee in service. It is observed that there is no question of considering

past record in case of proved misconduct, it is discretion of the employer to consider past record but the Labour Court cannot substitute penalty imposed by the employer, in such cases. Considering dictum of Hon'ble Apex Court, quantum of misappropriated amount is inconsequential and punishment of dismissal cannot be said to be dis-proportionate. Besides, the Complainant has nine misconducts at his credit for which, he was fined and his increment was temporarily withheld for three months. However, he has not improved. I, therefore, find that punishment of dismissal is not an unfair labour practice and Labour Court has rightly dismissed the complaint. Accordingly, I answer Point No. 2 in the negative and pass following order :—

Order

(*i*) The revision application is dismissed.

(*ii*) Parties to bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
dated the 9th June 2003.

V. D. PARDESHI,
Assistant Registrar,
Industrial Court, Kolhapur.

———

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 173 OF 1998.—Shri Dattatraya Akaram Patil, R/o. Budhwar Peth, Madhavnagar, Tal. Miraj, Dist. Sangli—*Petitioner—Versus*—Depot Manager (Senior), Maharashtra State Road Transport Corporation, Sangli—*Respondent.*

In the matter of revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.— Shri C. A. Jadhav, Member.

Appearances.— Shri K. D. Shinde, Advocate for the Petitioner.
Shri A. N. Kulkarni, Law Officer for Respondent.

Judgment

This is a revision by original Complainant employee challenging legality of judgment and order passed in Complaint (ULP) No. 580 of 1990 by Labour Court, Sangli whereby, relief of reinstatement with continuity of service and full back wages is refused by dismissing his complaint.

2. Admittedly, present Petitioner (hereinafter referred to as the Complainant) was working with present Respondent (hereinafter referred to as the Corporation) as a conductor since 21st May 1965. He completed duty No. 18 on 30th January 1990 and then remitted the fare amount to concerned clerk of the Corporation. He completed another duty No. 23 on 3rd February 1990 and remitted the fare amount. The Stand-in-charge then imformed him on 21st February 1990 to remit extra amount of Rs. 56.70 as short cash of remittance dated 3rd February 1990. He agreed to pay such amount and then it was deducted from his pay. The Corporation then served chargesheet dated 1st March 1990 upon him alleging misconducts under clauses 10, 12(b), 22 and 48 of its Discipline and Appeal Procedure mainly alleging misappropriation of Rs. 56.70 by showing fare amount less to that extent. The Complainant denied the charges, then an enquiry took place. Finally, he was dismissed from service on 30th November 1990.

3. Above complaint was filed on 5th December 1990 alleging unfair labour practice under items 1(a), (b), (d), (f) and (g) of Schedule IV of the M.R.T.U. and P.U.L.P. Act contending *inter alia* that he remitted excess amount of 19th November 1990 but the same is not considered at all. In fact, concerned clerk made necessary calculations and found remitted fare amount correct, as per sale of tickets. Later no, the Clerk played mischief and put wrong opening number on the new bill. Besides, the enquiry in contrary to principles of natural justice as the copies of way-bills and other documents were neither supplied nor shown to him. Even otherwise, findings of the Enquiry Officer are perveerse and baseless as they are not supported from any evidence on record. Likewise, there was no intention to misappropriate the amount as the same was deposited and punishment of dismissal for minor misconduct is shockingly disproportionate. Finally, the Complainant prayed for declaration of an unfair labour practice and all possible reliefs.

4. The Complainant also made an application under section 30(2) of the M.R.T.U. and P.U.L.P. Act to direct the Corporation to allow him to join duties, till decision of main complaint. Learned Labour Court passed *ad-interim* order directing the Corporation to allow the Complainant to join duties until further orders with show cause notice.

5. The Corporation filed its say cum written statement at Exh. C-3 and traversed all material allegations made by the Complainant. It contended that the Complainant found to have misappropriated an amount of Rs. 56.70 and hence was chargesheeted. The enquiry is fair and proper and principles of natural justice were duly observed. The Complainant himself has written ticket numbers in the entire record and himself misappropriated the fare amount. All such facts were duly established in the enquiry and hence findings of the Enquiry Officer are legal and proper. In addition, Complainant's past record is full of misconducts and the same was considered while imposing punishment of dismissal. Besides, proved misconducts are grave and serious and punishment of dismissal is legal and proper. Finally, the Corporation justified its action and prayed for dismissal of interim application as well as the complaint.

6. The interim Application (Exh. U-2) was not decided finally and the Complainant continued to be in employment by virtue of *ad-interim* order. Learned Labour Court framed issues at Exh. O-3 and recaste them later on. The parties then want to the trial. None of the parties led oral evidence. The Corporation produced entire enquiry papers alongwith Complainant's past and post record.

7. Learned Labour Court, on perusal of evidence and bearing both parties, observed that Complainant's plea of shunting the misconduct upon concerned clerk is totally after thought and the Complainant himself has written ticket numbers in his hand writing. It further observed that standard of proof in domastic enquiry is of preponderance of probability and not beyond reasonable doubt. It then held that the Enquiry Officer has rightly recorded finding of misconduct against the Complainant, those are borns out from the record and not perverse. On the proportionality of the punishment, it held that there were 65 similar misconducts to Complainant's credit, he was dismissed twice and the post record is of 24 misconducts. Finally, it held that the dismissal for proved misconducts, after consideration of past record, is legal and proper. Ultimately, it dismissed the complaint on 8th July 1998 by impugned decision. Legality thereof is challenged in this revision.

8. I heard both sides. Considering rival submissions, following points arise for my determination :—

(*i*) Whether impugned finding that findings of the Enquiry Officer are legal and proper, is justifiable ?

(*ii*) Whether impugned finding that punishment of dismissal is well justifiable, warrants interferance ?

(*iii*) What order ?

9. My findings, on above points, are as under :—

(*i*) Yes.

(*ii*) No.

(*iii*) The revision application is dismissed.

Reasons

10. This being a revision under section 44 of the M.R.T.U. and P.U.L.P. Act, it is not necessary to scrutinise rival contentions meticulously. The only material question is whether documents on record are incapable of supporting impugned decision. In other words, whether impugned decision is perverse of justifiable ?

11. Shri Shinde, learned Advocate representing the Complainant argued 24 in terms of grounds in revision memo and averments in the complaint. He submitted that negligence of concerned clerk cannot be attributed to the Complainant. Even otherwise, the Complainant voluntarily remitted the fare amount and there was no dis-honesty. As such, punishment of dismissal is an unfair labour practice. Shri A. N. Kulkarni, learned Law Officer of the Corporation supported impugned decision.

12. It is settled law that a Labour Court cannot sit as an Appellate Court over decision of Enquiry Officer. Likewise, standard of proof in a domestic enquiry is of preponderance of probability. Learned Labour Court, on perusal of Enquiry papers has accepted finding of the Enquiry Officer to be legal and proper. Admittedly, the Complainant has remitted short cash and that too after intimation by the Stand-in-Charge. Thus, it appears that he has accepted the liability. Otherwise, there was no necessity to allow deduction thereof from his wages. Besides, it appears that he himself entered ticket numbers in the entire record. Learned Labour Court, has, rightly held that his plea is after thought. Arguments of Shri Shinde that there was no dis-honesty on Complainant's part, in such circumstances, fails. It cannot be ignored that the Complainant has remitted short cash by allowing his deduction from wages after intimation by the Stand-in-charge. Had there been no such intimation, he would not have deposited the amount. I, therefore, find misconduct of short-cash and dishonesty is proved against the Complainant. Accordingly, I answer Point No. 1 in the affirmative.

13. Learned Labour Court has elaborately referred past and post service record of the Complainant. Past service record contains 65 misconducts of similar nature whereas post 24. All pertain to monetary transactions. The conductor is the only source of income for the Corporation and enjoys a post of trust and confidence. Misappropriation by such an employee is grave and serious. As such, punishment of dismissal is well justifiable and warrants no interference. Accordingly, I answer Point No. 2 in the negative and pass following order :—

Order

(*i*) The revision application is dismissed.

(*ii*) No order as to costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 9th June 2003.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

———

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 110 OF 2002.—Vasant Dada Shetkari Sahakari Bank Ltd., Sangli, Vasantdada Market Yard, Sangli, through its Managing Director.—*Petitioner*—*Versus*—Shri Vinayak Padmakar Kavathekar, Flat No. 3, Shri Gajanan Housing Society, Kupwad Road, Vishrambag, Sangli—*Respondent.*

In the matter of revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri D. N. Patil, Advocate for the Petitioner.
Shri D. S. Yadav, Advocate for Respondent.

Judgment

This a revision by an employer Bank challenging legality of order passed below Exh. U-2 in Complaint (ULP) No. 36 of 2002 by Labour Court, Sangli, whereby, it is directed to maintain status-quo regarding employment of its employee, pending the hearing and final disposal of main complaint.

2. Admittedly, present Petitioner (hereinafter referred to as the Bank) is engaging in banking business and is governed by provisions of the B.I.R. Act and consequently M.R.T.U. and P.U.L.P. Act. Present Respondent No. 1 (hereinafter referred to as the Complainant) is in employment of the Bank since the year 1987. Initially, he was working as a Clerk and presently as a Cashier. The Bank served show cause notice dated 27th June 2001 upon the Complainant alleging various misconducts. The Complainant gave an explanation dated 3rd July 2001. The Bank did not find it satisfactory and then served chargesheet dated 21st July 2001 upon him alleging indecent and arrogant behaviour with customers resulting into spoiling Bank's image in the eyes of general public, mistakes in daily work, wrong posting while maintaining the accounts and purposely making incorrect entries to have monetary loss to the Bank and started enquiry. One Advocate was appointed as an Enquiry Officer. The Bank engaged one Advocate as its Representative. The Complainant also engaged an Advocate to represent him in the enquiry. The Complainant was suspended with effect from 14th August 2001, pending the enquiry. The Enquiry Officer held that all (six) misconducts levelled against the Complainant are proved. The Bank then accepted the findings of the Enquiry Officer and served notice dated 3rd May 2002 upon the Complainant soliciting his explanation, if any.

3. Above complaint was filed on 18th May 2002 alleging unfair labour practice under items 1(a), (b), (d), (f) and (g) of Schedule IV of the M.R.T.U. and P.U.L.P. Act, *inter alia,* contending that the Complainant is working from 17th August 2000 at Jat Branch of the Bank, Branch Manager therein Shri Patil was negligent, unauthorisedly taking money from Bank's Branch in collusion with Peon Shri Powar and such fact was informed by the Complainant to the Head Office. Besides, the Complainant did not lend Rs. 5,000 to his Branch Manager. It is therefore, alleged that the Branch Manager and other employees of Jat Branch got seriously annoyed and started to find false execuses for his elimination. The show cause notice and the enquiry is outcome of the same. It is further alleged that charges levelled are vague, baseless and lack in material particulars. Besides, un-reasonable condition was put in the suspension order that the Complainant should not leave head quarter without permission, pending the enquiry. Such condition is contrary to provisions of Model Standing Orders. It is then alleged that legal practioner who actively participated in framing alleged charges is appointed as an Enquiry Officer was totally bias and acted as Management Representative. Then a farce of enquiry was made, however, no material documents were produced in the enquiry. In addition,

some fabricated complaints and reports were relied in the enquiry but authors thereof were not examined and the Complainant had no opportunity to cross examine them. It is further alleged that the enquiry was completed hastily and hurridly and no suspension allowance was paid to the Complainant.

4. It is further case of the Complainant that the Bank has failed to prove any of the charges levelled against him and the same can well be gathered from cross-examination of management's witnesses. Even then, the Enquiry Officer has recorded false and perverse findng holding him guilty of alleged misconducts. The findings are not supported any evidence but are totally perverse, bias illogical and baseless.

5. It is further alleged by the Complainant that he has reliably learnt and apprehends that the Bank is going to impose extreme punishment of dismissal or discharge by illegally relying upon the enquiry report and ignoring his past record, which is an unfair labour practice. Finally, he prayed for declaration of an unfair labour practice, restraining the Bank from terminating his services by directing his continuation in employment and in alternate, reinstatement with continuity of service and full back wages, if already terminated.

6. The Complainant also made an application (Exh. U-2) under section 30(2) of the M.R.T.U. and P.U.L.P. Act for temporary withdrawal of unfair labour practice or directing the Bank to allow him to join the duties, if already terminated, pending the hearing and final disposal of main complaint.

7. The Bank filed its say (Exh. C-4) to the interim application (Exh. U-2) and denied all material allegations made by the Complainant contending, at the outset, that the application for interim relief is premature and not maintainable. It contended that the Complainant was duly chargesheeted as per the standing orders. It contended that the Complainant was informed time and again orally as well as through demi official letters to improve his conduct and working, but failed. Allegations against the Branch Manager Shri Patil are totally false and baseless. General public and customers made complaints against the Complainant about his indecent behaviour. Eventually, he was chargesheeted and suspended, pending the enquiry. Ample opportunity was given to the Complainant in the enquiry to defend himself, to cross examine management witness and principles of natural justice were totally followed. A show cause notice was served upon the Complainant, his explanation was unsatisfactory and hence the enquiry was initiated. The Enquiry Officer acted impartially. Copies of all documents produced before the Enquiry Officer were supplied to the Complainant and those are neither fabricated nor false. It is not necessary to examine authors of various complaints received by the Bank against the Complainant. Besides, suspension allowance is paid to the Complainant from time to time. It is further contended that findings of the Enqiry Officer are well supported by evidence on record and accepted in Board Meeting, after its perusal. The Bank has yet to take appropriate decision but the Complainant has rushed to the Court by misusing the process of law. Bank's management will take proper decision and the Complainant may approach the Court thereafter, if dissatisfied. In such circumstances, the Bank cannot be restrained from taking any decision on the basis of enquiry report and balance of convenience lies in favour of the Bank. Finally, the bank has prayed for dismissal of the interim application.

8. The Complainant produced copies of show cause, his reply, chargesheet, reply to the chargesheet, suspension order, enquiry proceeding, written arguments submitted before the Enquiry Officer and final notice calling his explanation to Enquiry Report, with list Exh. U-4. The Bank produced entire enquiry papers alongwith documents produced in the enquiry and report of the Enquiry Officer, with list Exh. C-5.

9. Learned Labour Court, on perusal of documentary evidence produced on record and hearing both parties, firstly observed that decisions relied by the Bank and the Complainant, are after full trial of the proceedings but is presently adjudicating at the inter-locutory stage. It secondly observed that the Complainant is charged with five misconducts and first charge of chewing 'gutkha' while on duty is admitted by the Complainant. It thirdly observed that charge Nos. 2 to 4 will have to be considered only after adducing evidence in detail by the parties. It also observed that the Complainant, in one way alleging misconducts to be of minor nature has not filed pursis admitting or denying the enquiry but is challenging legality thereof and enquiry papers will have to be scrutinised after framing separate issues and then deciding them.

10. The Labour Court further observed that there is no specific period and dates regarding charge No. 2 and alleged complaints regarding Complainant's mis-behaviour with the customers, are not filed. It then further observed that no record is produced regarding issuance of notice to the Complainant on receipt of complaints against him. It then directly held that perusal of papers make out a *prima facie* case and application for interim relief (Exh. U-2) is to be allowed by expenditious hearing of main complaint. Finally, it allowed the interim application (Exh. U-2) *vide* order dated 6th September 2002. The same is challenged in this revision.

11. I heard both Advocates at length. Considering rival submissions, following points arise for my determination.—

(*i*) Whether impugned order directing the Bank to maintains status-quo regarding Complainant's employment is justifiable ?

(*ii*) What order ?

12. My findings, on above points, are as under.—

(*i*) No.

(*ii*) The Revision Application is partly allowed.

Reasons

13. The facts regarding Complainant's employment, issuance of show cause notice to him, explanation thereof, issuance of chargesheet, suspension pending the enquiry and report of the Enquiry Officer holding the Complainant guilty of six misconducts are no longer in dispute.

14. Shri Patil, learned Advocate representing the Bank vehementaly argued, at the outset, that the labour Court has decided the interim application (Exh. U-2) in a casual and cavalier manner. He firstly pointed out that the Bank has yet to file its written statement wherein, usual prayer seeking permission to lead evidence to substantiate its action, in case findings of the Enquiry Officer stand vitiated on any grounds, will be made. Even then, the Labour Court has proceeded to frame issues by presuming that say (Exh. U-4) is its written statement. He then pointed out that the labour Court is observing in one breath that Charge Nos. 2 to 4 will have to be considered after adducing evidence in detail by both parties and Charge No. 1 is admitted by the Complainant. However, it then observed that *prima facie* case is made out. There are no observations or even whisper as to how *prima facie* case is made out and other observations are simply by conjunctures and surmises. He then pointed out that management witness was put about 400 questions during his cross-examination and thus no case of violation of principles of natural justice is made out. Copies of all documents relied in the enquiry were given to the Complainant and thus principles of natural justice are fully followed. Findings of the Enquiry Officer are *prima facie,* supported by evidence in the enquiry and the standard of proof in a domestic enquiry is of prepondenance of probabilities. He further argued that the learned labour Court has not considered interim relief application (Exh. U-2) in its legal perspective and made inconsistent observation without application of mind and it is an error

apparant on the face of the record. He then submitted that granting the interim application (Exh. U-2) practically amounts to grant of final relief and proportionality of proposed punishment, which is yet to be awarded, cannot be decided at this stage. He further submitted that the Complainant can still apply and make interim application after decision by the Bank regarding the punishment to be awarded. As such, impugned order is totally unjustifiable.

15. Shri Patil, in second phase, submitted that decisions relied by Complainant's Advocate are after full trial of the proceeding, not applicable at this stage and the enquiry cannot be vitiated at the inter-locutory stage so as to grant interim relief. In fact, the labour Court has not yet observed that findings of the Enquiry Officer are perverse, the enquiry stands vitiated but has jumped to a conclusion that *prima facie* case is made out and that too in an arbitrary and casual manner. He then canvassed that the Bank can lead the evidence to justify its action in case the enquiry stands vitiated, prove the misconducts again before the Labour Court and proving of such misconducts will invoke theory of relation back. In such circumstances, it was totally unjust and improper to make in consistant observations regarding merits of the enquiry report and that too at the inter-locutory stage. In support of his arguments, he relied on the decision in *Sholapur Janata Sahakari Bank Ltd. and another* V/s. *Vilas Digamber Kamble reported in 2002 III CLR at page 308.*

16. Shri Yadav, learned Advocate representing the Complainant replied that the Complainant complained against the Branch Manager and therefore, a vague and baseless chargesheet was served upon him. In fact, there are no particulars in the chargesheet, no written complaints of the customers and no previous memos. As such, mischievous chargesheet cannot stand. For that end, he relied on the decision in *Griffon Laboratories Pvt. Ltd.* V/s. *Maharashtra Shramik Sena and Others reported in 2001 III CLR at page 655, Ravindra R. Tendulkar* V/s. *Municipal Corporation of Greater Bombay and Ors. reported in 2000 III CLR at page 705 and Union of India* V/s. *Rajan Kumar Mohalik reported in 2000 III CLR at page 117.* He then pointed out various answers from cross examination of Branch Manager Shri Patil and argued that findings of the Enquiry Officer are *prima facie,* perverse. He then submitted that all material lecunas in the enquiry are material and the Bank cannot blindly approve such perverse findings of the Enquiry Officer. Finally, he submitted that findings of the Enquiry Officer are perverse, learned labour Court has rightly granted the interim relief and no interference is called for.

17. It appears on perusal of original record that the Bank has only filed reply (Exh. C-4) to the interim application and not the written statement. Thus, the labour Court was justified in framing the issues. Generally, an employer files say cum written statement but such is not the present case. It appears that learned labour Court has lost sight of this material aspect and has recorded the same (Exh. C-4) as the say and the written statement.

18. I am respectfully bound by various decisions relied by both Advocates. It is held in Griffon Laboratories Pvt. Ltd. *V/s.* Maharashtra Shramik Sena's case (referred above) that vagueness of the chargesheet vitiates the enquiry. It is held in Union of India *V/s.* Rajan Kumar Mohalik (referred above) that once relevant document or material was considered in the enquiry without making the same available to the delinquent, then there will be infraction of principles of natural justice and fair play and the enquiry is vitiated. In the present case, enquiry papers show that copies of documents relied in the enquiry are delivered to the Complainant. Therefore, *prima facie,* it cannot be accepted that the enquriy is contrary to the principles of natural justice. It is seen that management witness was put about 400 questions in his cross-examination on all material aspects and sufficient opportunity of being heard was given to the Complainant in the enquiry. Therefore, observations in Rajan Kumar Mohalik's case, with full respects, are inapplicable here.

19. The Chargesheet alleges six misconducts against the Complainant. As per observations of Labour Court, first charge is admitted by the Complainant and Charge Nos. 2 to 4 needs to be considered only after adducing evidence in detail by the parties. Consequently, I am unable to appreciate as to how the Labour Court jumped to the conclusion that a *prima facie* case is made out. Learned Labour Court has observed that alleged complaints regarding Complainant's misbehaviour are not filed. However, Advocate Shri Patil pointed out from the enquiry papers that all those complaints are produced before the Enquiry Officer on 4th September 2001 with list Exh. 8 and noting of the Enquiry Officer that copies thereof are given to the Complainant which are subscribed by the Complainant. Thus, observation of learned Labour Court that alleged complaints regarding misbehaviour of the Complainant are not filed, do not stand to reason. On the contrary, the logical inference is otherwise.

20. In Griffon Laboratories' case (referred above), the employer was allowed to lead evidence to justify termination after holding that the chargesheet is vitiated and then it was held that charge of misconduct is not established even on preponderance of probabilities. In the present case, stage of vitiating the chargesheet and enquiry, if any, and premitting the Bank to lead evidence to prove the misconducts is yet to come. As such, observations therein are of no help to the Complainant at this inter locutory stage. It is not in dispute that statement of concerned persons who complained against the Complainant regarding his indecent and arrogant behaviour are not recorded. Question of extending an opportunity to the Complainant to cross-examine them and consequential effect thereof as well as merits of inquiry report needs to be decided alongwith the issue of validity of the inquiry. Observations in Solapur Janata Sahakari bank's case (referred above) are of material importance. It is observed that when an employee goes before the Court seeking order for his reinstatement by an interim order, then it is advisable to consider that application for interim relief alongwith the question of validity or otherwise of the enquiry and considering the application for interim relief in the light of findings recorded by the labour Court on the question of validity or otherwise or the enquiry. It is further observed that granting an interim relief resulting into reinstatement of an employee and finding the enquiry to be valid at subsequent stage, will lead to anomolous results. Observations in this decision are clearly applicable to this case. I, therefore, find that grant of interim relief by learned Labour Court prior to deciding issue as to validity of disciplinary enquiry, is unjustifiable. As per observation in Solapur Janata Sahakari Bank's case, it was adviable to decide the interim application (Exh. U-2) alongwith the issue as to validity of the disciplinary enquiry. Learned Labour Court has observed that first charge is admitted whereas Charge Nos. 2 to 4 will have to be considered only after adducing evidence in detail by the parties. Therefore, I am unable to appreciate as to how it held that a *prima facie* case is made out. There are no reasons or observations as to how *prima facie* case is made out. As such, those observations are unjustifiable. Besides, it is nowhere observed by learned Labour Court that findings of the Enquiry Officer are *prima facie* perverse. As such, plea of vague chargesheet cannot be entertained at the interlocutory stage. Alleged misconducts, *prima facie,* cannot be said to be of a minor or technical character. It cannot be ignored that the Bank can lead evidence to prove the misconducts and in such contingencies effect of theory of relation back will be material. Finally, I hold that impugned order, in the background of peculiar observations of learned Labour Court is unjustifiable and contrary to the observations in Solapur Janata Sahakari Bank's case. Accordingly, I answer Point No. 1 in the negative.

21. But the controversy does not end here. Observations in Solapur Janata Sahakari Bank's case will have to be followed. Consequently, it will be just and proper to decide the interim application (Exh. U-2) afresh alongwith the issue as to validity of disciplinary enquiry.

22. Finally, I pass following order :—

Order

(*i*) The revision application is partly allowed.

(*ii*) Impugned order directing the Bank to maintain status quo regarding Complainant's employment, is set-aside.

(*iii*) The Bank is directed to file its written statement withing one month from today.

(*iv*) The Labour Court is directed to decide the application (Exh. U-2) for interim relief afresh alongwith the issue regarding validity of disciplinary enquiry.

(*v*) R. and P. be sent to Labour Court forthwith and the parties shall appear thereon 23rd June, 2003.

(*vi*) Parties to bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 9th June 2003.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

———

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 174 OF 1997.—Abdul Alli Jamadar, R/o. Danoli, Tal. Shirol, District Kolhapur—*Petitioner*—*Versus*—Depot Manager (Senior) Maharashtra State Road Transport Corporation, Sangli Division, Sangli.—*Respondent.*

In the matter of revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri K. D. Shinde, Advocate for the Petitioner.
Shri A. N. Kulkarni, Law Officer for Respondent.

Judgment

This a revision by Original Complainant challenging legality of judgment and order passed in Complaint (ULP) No. 11 of 1993 by Labour Court, Sangli, whereby, relief of reinstatement with continuity of service and full back wages is refused, by dismissing his complaint.

2. Admittedly, present Petitioner (hereinafter referred to as the Complainant) started working under present Respondent Maharashtra State Road Transport Corporation (hereinafter referred to as the Corporation) as a conductor from 1st October 1970. He was dismissed from service on 25th March 1988, after an enquiry, on the ground of abseteesm. Thereafter, he was re-appointed in May 1988, and was posted at Sangli Depot. The Corporation then served chargesheet dated 14th September 1992 upon him alleging misconducts under item 10 (indiscipline) and 35 (irregular attendance, absence without leave and without reasonable cause and absence without prior permission) of its Discipline and Appeal Procedure. Then an enquiry took place. The Complainant engaged union representative to represent him in the enquiry. The Enquiry Officer held that both misconducts are proved. Ultimately, the Complainant was dismissed from service with effect from 30th December 1992.

3. It is case of the Complainant that he was suffering from a peculiar disease whereby his entire body used to swell. He took treatment of many doctors but there was no proper diagnosis. Eventually, he was unable to attend the duties. In addition, he informed about his such peculiar disease to his Higher Officers, from time to time. It is alleged that he submitted leave applications, from time to time for the period for which he was unable to attend the duties. His leave applications were accepted but neither granted nor rejected. He was not even informed that his leave applications are rejected and he should join duties. He gave proper explanation to the chargesheet even then, an enquiry was held against him. It is further alleged that no opportunity of being heard was extended to him in the enquiry and principles of natural justice were violated. The chages are not at all proved in the enquiry. Even then, the Enquiry Officer held that those are proved. As such, findings of the Enquiry Officer are totally perverse. Finally, it is alleged that the Corporation has indulged into unfair labour practices under items 1(*a*), (*b*), (*d*), (*e*), (*f*) and (*g*) of schedule IV of the M.R.T.U. and P.U.L.P. Act. On such averments, the Complainant prayed for reinstatement with continuity of service and full back wages and other consequential reliefs.

4. The Corporation filed its written statement at Exh. C-3 and traversed all material allegations made by the Complainant. It contended that the Complainant was dismissed, in the past, on the ground of absenteesm, was re-appointed but did not improve. In fact, the Complainant is in the habit of remaining absent without prior permission and reasonable ground. He was repeatedly absent during January, 1992 to July, 1992 and hence was required to be chargesheeted. The Complainant engaged union representative in the enquiry, was given reasonable opportunity

of being heard and thus the enquiry is in consonance with principles of natural justice. The Enquiry Officer has recorded a proper finding based on evidence and that the charges levelled against the Complainant are proved properly. As such, findings of the Enqiry Officer are well justifiable. Proved misconducts are grave and serious, there was no improvement on Complainant's part despite an opportunity and hence proper punishment of dismissal was awarded. Thus, the Corporation justified its action and prayed for dismissal of the complaint.

5. Considering rival pleadings, the Labour Court framed issues at Exh. O-3 and the parties went to the trial. None of the parties led oral evidence and filed pursis to that effect, on record. The Complainant produced copies of acknowledgements of his leave applications, Medical Certificate of Dr. Jain, Enquiry Report and order of dismissal, with list Exh. U-6. In rebuttal, the Corporation produced entire Enquiry papers, Report of the Enquiry Officer, two leave applications of the Complainant and his default card, with list Exh. C-4.

6. Learned Labour Court, on perusal of evidence and hearing both parties, observed that mere presentation of some leave applications, without justification thereof, is inconsequential. The Complainant was absent for 16 days in January, 1992, 9 days in February, 1992, 18 days in March, 1992, 8 days in April, 1992, 15 days in May, 1992, 4 days in June, 1992 and 10 days in July, 1992. It then observed that there was no improvement on Complainant's part, despite his earlier dismissal on same ground and thus its a case of chronic absenteesm. It then held that enquiry is fair and proper and findings of the Enquiry Officer are well justifiable. Finally, it held that punishment of dismissal is not an unfair labour practice and dismissed the complaint by Judgment and Order dated 16th January 1997. The same is challenged in this revision.

7. I heard both sides. Considering rival submissions, following points arise for my determination :—

(*i*) Whether impugned finding that findings of the Enquiry Officer are legal and proper, is justifiable ?

(*ii*) Whether impugned finding that the Complainant has failed to prove unfair labour practice, is justifiable ?

(*iii*) What order ?

8. My findings, on above points, are as under :—

(*i*) Yes.

(*ii*) Yes.

(*iii*) The Revision Application is disimissed.

Reasons

9. This being a revision under section 44 of the M.R.T.U. and P.U.L.P. Act, it is not necessary to scrutinise rival pleadings meticulously. The only material question is whether the documents on record are incapable of supporting impugned decision. In other words, whether impugned decision is perverse or justifiable ?

10. The Complainant has challenged domestic enquiry firstly on the ground that the same is contrary to the principles of natural justice. However, no serious arguments were made by Shri Shinde, Learned Advocate representing the Complainant, in that behalf. Even otherwise, I find that proper opportunity of being heard was given to the Complainant and Learned Labour Court has rightly held that the same is in consonance with the principles of natural justice.

11. Advocate Shri Shinde canvassed that the Complainant was suffering from a peculiar disease, whereby his entire body used to swell. There was no diagnosis despite treatment of many Doctors and thus, there is good justification for his absence. Its not a case of misappropriation and dis-honesty. Therefore, extreme punishment of economical death is certainly unjustifiable, shockingly disproportionate and an unfair labour practice. He then submitted that an opportunity to improve should be extended to the Complainant. Finally, he submitted that the Complainant is simply praying for sympathy of the Court.

12. Corporation's Law Officer Shri Kulkarni replied that the Complainant was working as Conductor and the panic situation about his unauthorised absence can be visulised. The Depot Manager is required to make an alternate arrangement, many times substitute conductors are not available and ultimately, it causes inconvenience to the public and results into loss of revenue of the Corporation. He then pointed out that no medical evidence is brought on record regarding Complainant's alleged disease and plea of illness is after-thought. Medical Certificate of Doctor Jain is worth perusal. It simply states that the Complainant is suffering from 1st January 1992. It no-where states that the Complainant is under his treatment and was unable to join duties on account of his alleged peculiar disease. Thus, its a case of chronic absenteesm. Complainant's past record is full of absenteesm and now, he cannot be foistered upon the Corporation.

13. It is interesting to note that no medical evidence was adduced before the Enquiry Officer as well as the Labour Court regarding Complainant's peculiar disease. There was no difficulty for the Complainant to produce medical evidence about his alleged disease. If the same really prevented him from joining duties. Two leave applications produced by the Corporation in the enquiry say that the Complainant is going out of station and guests are visiting his house. In such circumstances, I am unable to accept alleged justification for repeated absence. Besides, panic situation due to Complainant's sudden absence, inconvenience to the passengers as well as the Corporation have a Vital bearing on the gravity of misconduct. It is held in *North Waste Karnataka Transport Corporation* V/s. *Fernandes reported in 2001 (89) FLR at page 813* that unauthorised absence from duty has very serious disruptive effect on empolyer's services, Courts will have to construe the provisions strictly and punishment in consonance with the gravity of misconduct have to be imposed. In this decision, a note of caution is directed to Industrial Courts and Tribunals observing that reinstatement in a mechanic mode requires to be disapproved of unless facts and circumstances of a peculiar case judiciously fully justify such an order. It is also observed that mechanical reinstatements creats a premium on indiscipline, those persons become vittually uncontrollable on next occasion and are the worst possible example to their colleagues. It is also observed in *M. D. Kawade* V/s. *Mahindra Engineering and Chemicals products Ltd. reported in 2000 I CLR at page 545* that a workman must be always 'at work' and not 'away from work' and that should be our ' work culture.' Considering observations in above decisions, repeated absence cannot be construed to as a technical or minor misconduct. In the present case, the Complainant was dismissed in the past on the ground of absenteesm, was re-appointed as per orders in the Departmental Appeal on the ground of extending opportunity to improve himself, however, the reformative theory did not become fruitful. His continous absence for substantial period from January, 1992 to July, 1992 and that too without proper explanation shows that he has no regards for his duty as well as towards him employer. Its a clear case of chronic abseteesm and he should not be foistered upon the Corporation by taking a sympathetic view. I, therefore, find that learned labour Court has rightly held that findings of the Enquiry Officer are well

justifiable and there is no unfair labour practices by the Corporation. Accordingly, I answer Point Nos. 1 and 2 in the affirmative and pass following order.

Order

(*i*) The revision application is dismissed.

(*ii*) Parties shall bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 9th June 2003.

Asstt. Registrar,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, AT KOLHAPUR

REVISION APPLICATION (ULP) No. 233 OF 1998.—Depot Manager (A), Maharashtra State Road Transport Corporation, Vita Depot, Tal. Khanapur, District Sangli—*Petitioner*—*Versus*—Bajarang Jyotiram Chavan, At Post Tandulwadi, Tal. Khanapur, Dist. Sangli.—*Respondent.*

In the matter of Revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.—Shri C. A. Jadhav, Member.

Advocates.—Shri M. G. Badadare, Advocate for the Petitioner.
Shri K. D. Shinde, Advocate for the Respondent.

JUDGMENT

This is a revision by an employer challenging legality of judgment and order passed in Complaint (ULP) No. 80 of 1991 by Labour Court, Sangli, whereby, he is directed to continue interim temporary reinstatement of his employee with continuity of service by holding that employee's dismissal is an unfair labour practice.

2. Admittedly, present Respondent (hereinafter referred to as the Complainant) joined present Petitioner (hereinafter referred to as the Corporation) as a conductor in the year 1968. He was posted at Jat, was on duty on 9th December 1987 on S.T. Bus and journey thereof was to end on 11th December 1987. Accordingly, his bus came to Jat Depot on 11th December 1987. It is also an admitted position that the Complainant did not deposit fare amount of Rs. 2,300 on end of his duty but deposited the same on 18th December 1987. The Corporation then served chargesheet dated 16th January 1988 upon him mainly alleging temporary misappropriation of fare amount, as provided under Discipline and Appeal Procedure of the Corporation. Then an enquiry took place. The Enquiry Officer held that all charges levelled against the Complainant are proved. Ultimately, the Complainant was dismissed with effect from 9th March 1991.

3. It is case of the Complainant that he was told on arrival at jat that his wife is seriously ill. He then got mentally disturbed, simply kept his tray in the Depot and straightway went to home. As such, he was unable to deposit fare amount on 11th December 1987. He then requested the Depot Manager on 16th December 1987 to allow him to deposit the fare amount but was not allowed. Eventually, he approached Divisional Controller and was permitted to deposit fare amount on 18th December 1987. It is alleged that he was unable to deposit fare amount due to serious illness of his wife and there is no dis-honest intention in retaining the same. In fact, he tendered the amount on the first day of joining duty *i.e.* 18th December 1987. Even then, the Enquiry Officer held him guilty of fraud, misappropriation and dis-honesty. It is further contended that none was examined in the enquiry, the enquiry is contrary to principles of natural justice and the findings of the Enquiry Officer are not supported by evidence. Besides, punishment of dismissal is shockingly disproportionate. Finally, he prayed for declaration of an unfair labour practice, reinstatement with continuity of service and other consequential reliefs.

4. The Complainant also made an application (Exh. U-2) under section 30(*2*) of the M.R.T.U. and P.U.L.P. Act for temporary withdrawal of his dismissal order. Learned Labour Court, passed ad-interim order directing the Corporation to allow the Complainant to join duties until further orders, with show cause notice.

5. The Corporation filed its say cum written statement at Exh. 3 and traversed all material allegations made by the Complainant. It contended that the Complainant did not deposit any fare amount and hence was required to be chargesheeted. Reasonable opportunity of being heard was given in the enquiry. The Complainant did not deposit fare amount and thus findings of the Enquiry Officer are legal and justifiable. Proved misconducts are grave and serious and punishment of dismissal is proper. In the alternate, it contended that an opportunity be given to lead evidence to substantiate its action, in case the enquiry is vitiated for any reason. Finally, the Corporation justified its action and prayed for dismissal of the complaint.

6. Learned Labour Court, after hearing both parties, confirmed ad-interim order, *vide* order dated 3rd September 1991.

7. Considering rival pleadings, learned Labour Court framed issued and the parties went to the trial. None of the parties led oral evidence. The Corporation produced entire enquiry papers alongwith Complainant's default card.

8. Learned Labour Court, on perusal of evidence and hearing both parties, held that findings of the Enquiry Officer are perverse, as Complainant's justification for non-payment of fare amount is legal and proper. It then held that the Corporation has engaged in an unfair labour practice and allowed the complaint, as above, by judgment and order dated 21st July 1998. The same is challenged in this revision.

9. I heard both sides. Considering rival submissions, following points arise for my determination.—

(*i*) Whether the Corporation was entitled to lead evidence to substantiate its charges after recording a finding by the Labour Court that findings of the Enquiry Officer are perverse ?

(*ii*) Whether final order directing continuation of interim temporary reinstatement with continuity of service is sustainable in law ?

(*iii*) What order ?

10. My findings, on above points, are as under.—

(*i*) Yes.

(*ii*) No.

(*iii*) The revision application is partly allowed.

Reasons

11. Shri Badadare, learned Advocate representing the Corporation took me through the written statement and submitted that the Corporation has specifically prayed in the written statement for permission to lead evidence to substantiate its action if the enquiry is vitiated for any reasons. However, learned Labour Court has altogether ignored this material aspect and directly recorded an affirmative finding of an unfair labour practice. According to him, denying right to the Corporation to lead evidence to substantiate its action has resulted into prejudice to the Corporation. He placed reliance on a decesion in *Permanent Magetics Ltd.* V/s. *Vinod Vishnu Wani reported in 2002(93) F.L.R. at page 32.* Finally, he submitted that the matter may be remanded to Labour Court to decide it afresh by giving proper opportunity to the Corporation to lead evidence in support of the charges.

12. Shri Shinde, learned Advocate representing the Complainant did not object legal proposition canvassed by Advocate, Shri Badadare, but submitted that the Corporation has not paid Provident Fund despite Complainant's retirement, on account of pendency of this Revision. He then submitted that the Corporation be directed to release provident fund amount of the Complainant.

13. The Corporation has specifically pleaded in paragraph 8 of its written statement that it may be allowed to lead evidence to justify its action if the enquiry stands vitiated on any reasons. Learned Labour Court is altogether silent on the point as to why no opportunity was extended to the Corporation to lead evidence to justify its action. This is an error apparent on the face of the record. Observations in Permanent Magnetics case (referred above) area clearly applicable here. It is observed that once the labour Court comes to the conclusion that findings of the Enquiry Officer were perverse, then opportunity cannot be denied to the employer to lead evidence to substantiate the charges. Thus, learned Labour Court ought to have allowed the Corporation to lead evidence and then ought to have recorded finding on the issues, according to provisions of law. I, therefore, answer Point No. 1 in the affirmative.

14. It consequently, follows that impugned finding of unfair labour practice and consequential direction without permitting the Corporation to lead evidence, are unsustainable in law. Accordingly, I answer Point No. 2 in the negative.

15. In the background of above observations and findings, the matter is required to be remanded to Labour Court for extending an opportunity to the Corporation to lead evidence in support of the charges by setting aside impugned decision. The question regarding final relief to the Complainant will have to be considered thereafter.

16. As regards retirement benefits, Advocate, Shri Badadare explained that those will be paid, if any, except gratuity. It is not necessary to adjudicate said controversy. Suffice to say that the Complainant is entitled to all retirement benefits except gratuity amount, despite pendency of the complaint.

17. To conclude, I pass following order.—

Order

(*i*) The revision application is partly allowed.

(*ii*) Impugned decision is quashed and set-aside.

(*iii*) The matter is remanded to Labour Court, Sangli with a direction to decide the complaint afresh by extending an opportunity to the Corporation to lead evidence to justify its action. An opportunity to lead evidence shall also be extended to the Complainant.

(*iv*) Learned Labour Court is further directed to expedite hearing of the complaint and dispose of the same within 4 months from receipt of this order.

(*v*) R. & P. be sent to Labour Court forthwith and the parties shall appear there on 23rd June 2003.

(*vi*) No order as to costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 9th June 2003.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, AT KOLHAPUR

REVISION APPLICATION (ULP) No. 26 OF 2003.—Maharashtra State Road Transport Corporation, through the Divisional Traffic Officer, Ratnagiri Division, Ratnagiri—*Petitioner*—*Versus*—Shri Rajaram Ramchandra Sutar, At Post Borgaon, Tal. Walwa, District Sangli.—*Respondent.*

In the matter of revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri M. G. Badadare, Advocate for the Petitioner.
Shri A. M. Patwardhan, Advocate for the Respondent.

Judgment

This is a revision by an employer challenging legality of judgment and order passed in Complaint (ULP) No. 321 of 1992 by Labour Court, Kolhapur whereby, he is directed to reinstate his employee with continuity of service but without back wages for the period from his dismissal to interim temporary reinstatement.

2. Admittedly, present Respondent (hereinafter referred to as the Complainant) was working under present Petitioner (hereinafter referred to as the Corporation) as a driver from 6th May 1983 on daily wages and then was absorbed as a regular employee from 5th August 1987. The Corporation served chargesheet dated 15th February 1990 upon him alleging misconducts under items 11, 15, 22 and 42 of its Discipline and Appeal Procedure on the ground that he drove Corporation's bus on 31st May 1989 on Dapoli-Kolhapur road at an excessive over-speed and committed breach of Administrative Circulars or orders resulting into damage to the vehicle and caused loss to the Corporation or inconvenience to the public or both. Then an enquiry took place. The Enquiry Officer held the Complainant guilty of all charges. Eventually, he was dismissed from service on 20th July 1991. His first Departmental appeal was also dismissed and he was informed accordingly, on 2nd May 1992.

3. Above complaint came to be filed on 30th May 1992 alleging unfair labour practice under item 1(*a*), (*b*), (*d*), (*f*) and (*g*) of schedule IV of the M.R.T.U. and P.U.L.P. Act, *inter alia,* contending that the Complainant has not committed any misconduct, gave proper explanation to the chargesheet but the same was not considered at all. In fact, the accident took place in rainy season, the road was wet and black-barry fruits were lying on the road. At the time of incident, one cow abruptly came on the road and the Complainant, therefore applied the breaks. The vehicles slipped as the Complainant tried to take the vehicle on the side of the road. It is further alleged that a farce of enquiry was made and neither material documents were supplied to him nor material witnesses were examined. There was no material before the Enquiry Officer to hold him guilty. As such, findings of the Enquiry Officer are perverse. In addition, it is alleged that his past record was not considered and punishment of dismissal is shockingly disproportionate. Finally, the Complainant prayed for declaration of an unfair labour practice reinstatement with continuity of service and full back wages.

4. The Complainant also made an application (Exh. U-2) under section 30(2) of the M.R.T.U. and P.U.L.P. Act to direct the Corporation to allow him to join duties, till decision of main complaint.

5. The Corporation filed its say cum written statement at Exh. C-17 and traversed all material allegations made by the Complainant. It contended that the Complainant drove the bus by an excessive/over spped in violation of administrative circulars and orders and it resulted

into injury to 40 passengers. As such, he was required to be chargesheeted. Rules of natural justice were followed thoroughly in the enquiry and full opportunity to defend him was extended. The Enquiry Officer held the Complainant guilty on the basis of evidence produced before him and his findings are well justifiable. Besides, the Complainant has committed serious misconducts in the past. His past record was considered and then proper punishment of dismissal was awarded. Thus, the Corporation justified its action and prayed for dismissal of interim application as well as the complaint.

6. Learned Labour Court, after hearing both parties, allowed the interim application (Exh. U-2) on 24th August 1992 and directed the Corporation on allow the Complainant to join his duties, pending the hearing and final disposal of main complaint. Then issues were framed at Exh. 19.

7. Learned Labour Court, then passed an order on 13th February 1998 holding that findings of the Enquiry Officer are perverse and permitted the Corporation to lead evidence in support of the charges.

8. The parties then went to the trial. The Corporation examined passenger Shri Kamble (Exh. C-24), Panchas Shri Jalgonkar and Shri Lele (Exh. C-25 and 26) and its Divisional Traffic Officer Shri Lavankar (Exh. C-27). The Corporation also produced entire enquiry papers. The Complainant did not lead any oral evidence.

9. Learned Labour Court, on perusal of evidence and hearing both parties, observed that Shri Kamble is the only material witnesses and other witnesses have not witnessed the incident. It then observed that Shri Kamble was unable to state speed of the bus at the relevant time as well as abrupt crossing of the road by a cow and, therefore, his version does not prove rash and negligent driving. It further observed that the conductor has stated before Police that speed of the bus was not excessive but he is not examined and the Complainant is acquitted by the Judicial Magistrate, First Class, Dapoli. It then held that findings of the Enquiry Officer are not proper but perverse and the Corporation has failed to prove the findings of the Enqiry Officer are proper and not perverse. Consequently, it held that Complainant's termination is illegal and improper and the Corporation has engaged in an unfair labour practice.

10. As regards relief, learned Labour Court observed that the Complainant is in employment since the year 1992, on the basis of interim order but cannot be fully exonerated as ought to have used his full skill and confidence to avoid the incident but somewhat was unsuccessful. It then held that backwages must be forfeitted by way of token punishment. Finally, it allowed the complaint, as above, by impugned judgment and order.

11. I heard both Advocates at length. Considering rival submissions, following points arise for my determination.—

(*i*) Whether impugned finding that the Corporation has failed to prove the charges levelled against the Complainant, is justifiable ?

(*ii*) Whether impugned decision warrants interference ?

(*iii*) What order ?

12. My findings, on above points, are as under.—

(*i*) No.

(*ii*) Yes.

(*iii*) The revision application is partly allowed.

Reasons

13. It is not in dispute that the Complainant was driving Corporation's bus at the relevant time, it slipped at the spot, then dashed a tree nearby and many passengers from the bus were injured. The Complainant has stated in his statement that he was driving the bus at a speed of 45 k.mtrs. per hour. It is also an admitted position that the Complainant is acquitted on 25th September 1992 of the offences punishable under section 279, 337, 427 of Indian Penal Code and 116 of Motor Vehicles Act, by the judicial magistrate.

14. Shri Badadare, learned Advocate representing the Corporation argued that findings of the Criminal Court is not necessarily conclusion of the charge of misconduct in a domestic enquiry. Police have recorded a statement of the Complainant on 31st May, 1989 itself. A domestic enquiry is not a criminal trial and the standard of proof required is that of preponderance of probabilities and not proof beyond doubt. Complainant's statement recorded by the Police cannot be read in the criminal trial but can be read in the domestic enquiry. As such, acquittal by the criminal Court does not automatically exonerate the Complainant from the charges in the domestic enquiry. He then submitted that the Complainant has not challenged *'Panchanama'* dated 31st May 1989 prepared by Police. He then explained that there was main charge of rash and negligent driving in the criminal trial whereas main charge in the chargesheet is driving a vehicle at an excessive/over spped and that too in violation of administrative criculars and orders. Consequently, the standard of proof if that of preponderance of probabilities. But the Labour Court has misconstrued charges of misconducts and presumed that the charge is of rash and negligent driving. In fact, charge is of driving by an excessive/ over speed. He then took me through spot *panchanama,* pointed out that there were break marks of 100 foot and argued that the break marks are self-eloquent and clearly establish misconduct of over speeding by a driver. Finally, he submitted that this is error apparant on the face of the record and revisional interference is necessary.

15. Shri Patwardhan, learned Advocate representing the Complainant replied that evidence cannot be re-appreciated in a revision and hence findings of facts recorded by the labour Court cannot be disturbed. Besides, the Judicial Magistrate has observed that a cow suddenly crossed the road and the Complainant was required to apply breaks immediately. Consequently, it was purely an accident and no misconduct can be attributed to the Complainant. He added that the road was wet, black-berry fruits were lying on the road and hence the bus got sliped. Eventually, break marks cannot be a decisive evidence.

16. On perusal of impugned decision, it is seen that learned Labour Court has proceeded on presumption that alleged misconduct is of driving the bus in a rash and negligent manner. In fact, item 42 of Corporation's Discipline and Appeal Procedure is 'over-speeding by a driver.' In my judgment, the words 'rash and negligent' contemplate more then mere carelessness or error of judgment. On the contrary, 'over-speeding by a driver' contemplates driving by a more speed than required. As such, particular degree of speed cannot be a yard-stick to decide misconduct of over-speeding. It will depend upon facts and circumstances of each case. For example, there may not be a speed limit if the road is totally visible and has absolutely no traffic. On the other hand, driving by more speed in city area than of the required speed can well be turn as 'overspeeding'. Divisional Traffic Officer Shri Lavankar has replied in the cross-examination that normal speed of the bus could be of 50 K. Mtrs. per hour as the bus driven by the Complainant was locked at 60 K. Mtrs. per hour. In the light of above discussion, particular speed can it a decesive critaria. But the speed coupled with peculiar circumstances will determine over-speeding or otherwise. For that purpose, situation on the spot and particularly break marks of 100 Ft. are self-eloquent. Learned Labour Court appears to have ignored this material piece of evidence. It is silent regarding of the speed on the basis of break-marks.

17. I am cautions about limited jurisdiction of this Court under section 44 of the M.R.T.U and P.U.L.P Act. In the present case, learned Labour Court has ignored material aspect of the evidence *i.e.* break-marks of 100 Ft. Two panchas examined by the Corporation prove the *panchanama.* Moreover, preperation of the *Panchanama* is not challenged by the Complainant. In such circumstances, I am required to consider *'panchanama'* and contents thereof. It is observed in *Sadanand Samsi* V/s. *Kirlosker eummins Ltd. and Ors. reported in 2003 I CLR at page 50* - that if the Industrial Court comes to a conclusion that the Labour Court has certainly ignored certain portion or certain aspect of the evidence, then, in that case, it is permissible for the Industrial Court under section 44 of the M.R.T.U and P.U.L.P Act to appreciate the evidence and come to its own conclusion. It is further observed that such appreication of the evidence will not fall within the prohibited area of re-appreciation, re-assessment or re-appraisal of the evidence undertaken by the Labour Court and the Industral Court can certainly come to a difference conclusion on such fresh appreciation of the evidence. Obeervations in this decision are clearly applicable to pressnt case.

18. There is nothing on record to show that black berry fruits were lying on the road. Advocate Shri Badadare rightly submitted that circulars and orders are issued to all drivers from time to time to be more cautious and careful in Konkan area as it rains heavily and there are more chances of slipping vehicles. In my judgment, the Complainant was well aware of all administrative circulars and orders regarding driving buses in Konkan area. If the road was wet he ought to have taken utmost care and ought to have driven the bus in such a speed that there should not be mishap or material damage to the vehicle and the passenger. In such circumstances, breaks marks of 100 Ft. are self-eloquent of his over-speeding *i.e.* driving by more speed than required in the particular circumstances. He was well aware of the situation of the road and ought to have been alert of liklihood of slipping the vehicle. His own admission that he was driving the bus at about 45 K. Mtrs per hour, therefore, suggests that he was driving the bus in over-speeding than the required under general circumstance one may accept that driving a vehicle by a speed of 45 K. Mtrs. per hour is a moderate speed. However, 'over-speeding' has to be construed in the light of necessary driving speed in a particular circumstance. Thus, a particular speed cannot be a yard-stick to decide all cases of over-speeding. I addition, learned Labour Court has observed that the Complainant cannot be fully exonerated as he could have used his full skill and efficiency. These observations are well indicative of driving by over-speeding. Than required. I, therefore, find that the learned Labour Court has misconstrued the nature of misconduct and totally erred in presuming that the misconduct is of rash and negligent driving. This is an error apparant on the face of the record requiring revisional interference.

19. It is pertinent to note that if the Complainant would have driven the vehicle at required speed by considering situation of the road and likelihood of slipping the vehcile, the vehicle could not have slipped for a distance of 100 feet. Thus, *'panchanama'* and especially break-marks are self-eloquent and clearly establish that he was driving the bus by over-speeding in violation of administrative circulars and orders which resulted into damage to the Corporation and inconvenience to the public. It also cannot be ignored that 40 passengers were injured though no-body expired. Acquittal of the criminal Court is regarding failure to prove rash and negligent driving. It is of over-speeding and therefore, the acquittal does not conclusive to decide the misconduct.

20. In the background of above discussions, I hold that finding of the learned labour Court that the Corporation has failed to prove the misconduct does not flow from the evidence on record and is unjustifiable. On the contrary, reasonable consideration of the evidence on record shows that the Corporation has proved the misconduct levelled against the Complainant. Accordingly, I answer Point No. 1 in the negative by holding that the Corporation has proved the misconduct levelled against the Complainant.

21. Now turning to proportionality of punishment, Advocate Shri Badadare argued that Complainant's past record is not clean and 4 misconducts are at this credit. The Complainant was punished four times and now it will be highly dangerous to continue him in the employment. As such, punishment of dismissal is well justifiable.

22. Advocate Shri Patwardhan replied that the Complainant is in employment by virtue of interim order since the year 1992, has not committed similar misconduct again but has given a reward for safe driving. Besides, the main cause of accident was sudden crossing of the road by a cow. As such, punishment of dismissal will certainly be unjustifiable. Advocate Shri Badadare has not seriously disputed that now the Complainant is given reward for safe-driving.

23. Admittedly, the Complainant is in employment since 24th August 1992 by virtue of interim order. He has not committed any misconduct since then for a period of about 11 years. Thus, it can be well said that he has improved a lot and is discharging his duties very cautiously. No doubt, he is punished on four occassions prior to 1989. However, his later improvement and cautions driving for about 11 years coupled with award of safe driving, cannot be ignored. In such circumstances. I find that extreme punishment of dismissal is unwarranted. But that does not mean that he should be exonerated for the stale misdoncut. The corporation is entitled to impose any other appropriate punishment otherwise than of dismissal or discharge. I, therefore, hold that impugned decision warrants interference to such an extent. Accordingly, I answer Point No. 2 in the affirmative.

24. To summarise, the Corporation has proved misconducts levelled against the Complainant. However, extreme punishment of dismissal is unwarranted. It is entitled to impose any other appropriate punishment and interference to such limited extent is warranted.

25. To conclude, I pass following order.—

Order

(*i*) The revision application is partly allowed.

(*ii*) Impugned finding that the Corporation has failed to prove alleged misconduct is set-aside and it is held that those are proved.

(*iii*) Impugned order of declaration of unfair labour practice and direction to cease and desist from engaging in such unfair labour practice and other direction of reinstatement is confirmed.

(*iv*) The Corporation is permitted to impose appropriate punishment other than of dismissal or discharge.

(*v*) Parties to bear their own costs.

C. A. JADHAV,

Kolhapur, Member,

Dated the 9th June 2003. Industrial Court, Kolhapur.

———

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, AT KOLHAPUR

REVISION APPLICATION (ULP) No. 71/1999 and 53 of 2001—The Managing Director, Shri Hanuman Sahakari Doodh Vyavasayik Va Krishi Poorak Seva Sanstha Maryadit, Yalgud, Tal. Hatkanagale, Dist. Kolhapur (Respondent in revision (ULP) No. 53 of 2001)—*Petitioner*—*Versus*—Joint Secretary, Lal Bavata General Kamgar Union, 9/115, Laxmi Market, Ichalkaranji. (Petitioner in revision 53 of 2001)—*Respondent.*

In the matter of revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri S. A. Pise, Advocate for the Petitioner.
Shri I. A. Jangale, Rep. for the Respondent.

JUDGMENT

These revision are arising out of a judgment and order passed in Complaint (ULP) No. 20 of 1991 by Labour Court, Kolhapur whereby an employer - Milk Society is directed to reinstate its four employees with 1/3 back wages to three of them holding that the Milk Society has engaged in an unfair labour practice under items 1(*a*), (*b*) and (*f*) of schedule IV of the M.R.T.U. and P.U.L.P. Act.

2. Revision application (ULP) No. 71 of 1999 is preferred by Milk Society challenging impugned decision entirely whereas Revision Application (ULP) No. 53 of 2001 is by the Union to the extent of refusal of back wages to those four employees.

3. Lal Bavata General Kamgar Union (hereinafter referred as the Union) filed above complaint against Shri Hanuman Sahakari Doodh Vyavasayik Va Krishi Poorak Seva Sanstha Marayadit, Yalgud (hereinafter referred to as the Milk Society) on 4th January 1991 alleging that 7 employees named in the list annexed to the complaint (hereinafter referred to as the concerned employees) were working in Bakery Division of Milk Society since the dates mentioned in the list. The Union served a notice of demand dated 13th July 1985 upon the Milk Society raising various demands and communicating proposed strike with effect from 23rd April 1985. The Milk Society obtained stay from the Industrial Court, Kolhapur, the proposed strike was not commenced and the work was continued. It is alleged that employees working in Bakery Division have a weekly off on every Monday but the Milk Society used to compel them on all days and that too by paying single wages. Eventually, all employees working in the Bakery Division including the concerned employees decided that they will not work on weekly offs. Accordingly, they availed weekly off on 12th August 1985. It is alleged that the Milk Society got annoyed and they stopped prociding work to the employees from 13th August 1985. The concerned employees then complained to the Government Labour Officer on 16th August 1985. The Milk Society on visit of the Government Labour Officer agreed to give work from 17th August 1985 and then the work started. The concerned employees again availed weekly off on 19th August 1985 and reported for duties on 20th August 1985. However, the Milk Society informed them that the Bakery Division is going to be closed and asked them to go to home. Thereafter, the Union was compelled to file Reference (ULP) No. 5/85 wherein, the Milk Society agreed to take back the employees and endorsed accordingly in writing on the interim relief application filed in the reference. It is further alleged that the Milk Society even then did not allow concerned employees to join duties but only allowed those employees who would resign from the membership of the Union and sign on blank papers. It is alleged that concerned employees refused to surrender and hence were not taken in employment. Thereafter, the other new employees are appointed. According to the Union, therefore services of concerned employees are illegally terminated and it is an unfair labour practice under items 1(*a*), (*b*), (*d*) and (*f*) of schedule IV of the M.R.T.U. and P.U.L.P. Act. Consequently, the Union prayed for declaration of unfair labour practice reinstatement of concerned employees with continuity of service and full back wages as well as other consequential reliefs.

4. The Union also filed an application (Exh. U-2) for condoning the delay in filing the main complaint on the ground that Reference (ULP) No. 5/85 was pending till 27th November 1990 and hence the complaint could not be filed earlier.

5. The Milk Society filed its written statement at Exh. 16 challenging at the outset, competency of Union's Joint Secretary as well as locus standi to file the complaint. It contended that the Union is not recognised for its industry and further raised a plea of limitation.

6. It is case of Milk Society that it filed Complaint (ULP) No. 98/85 before Industrial Court, Kolhapur for declaration of injunction against proposed strike and interim injunction was granted in its favour. Despite such interim order, some of the employees refussed to commence work from 13th August 1985 to 16th August 1985 ans also thereafter. Employees in the Bakery Section were absent from 19th August 1985 to 6th September 1985 and continued to be absent even thereafter.

7. It is explained by the Milk Society that concerned employees deliberately avoided to join duties despite directions of the Industrial Court and two of them (Sr. Nos. 2 and 5) have resigned and now are no longer in employment. The Investigating Officer appointed *vide* order in Complaint (ULP) No. 58/85 who submitted a report that all employees except 5 have resumed duties. As such, it is case of the Milk Society that concerned employees except Sr. Nos. 2 and 5 have coluntarily abandoned the service, have gainfuly employed elsewhere and have sufficients means of livlihood. It is denied that they were threatened and were not allowed to join duties. According to Milk Society, therefore, it has not engaged in any unfair labour practices. Finally, it prayed for dismissal of the complaint.

8. Both parties then went to the trial and addced documentary as well as oral evidence. It was submitted before learned Labour Court that two employees (Sr. Nos. 2 and 5) in the list, have resigned and one (Sr. No. 7) in the list is taken in the employment and hence the controversy regarding employees at Sr. No. 1, 3, 4 and 6 only survives.

9. Learned Labour Court, on perusal of evidence and hearing both parties, held that delay in filing the complaint needs to be condoned as Reference (ULP) No. 5 of 1985 was pending and finally, came to be withdrawn on 27th November 1991 by availing permission to withdraw and liberty to file a complaint for the concerned employees. It then held that the Complainant Union has *locus standi* to file the complaint and it is maintainable. It further held that no domestic enquiry on the ground of abandonment of service is held nor attempts are made by Milk Society to inform concerned employees about their absence and abandonment and thus, it amounts to oral termination of concerned employees which is in violation of provisions under section 25F and G of the I.D. Act and it is an unfair labour practice. It then held that three of the concerned employees were not wholy employed whereas one gainfully employed all the while. Finally, it allowed the complaint as above, *vide* judgment and order dated 7th May 1999. The same is challenged in these revisions.

10. I heard both sides. Considering rival submissions, following points arise for my determination.—

(*i*) Whether impugned finding that the Milk Society has orally terminated services of four employees, is justifiable ?

(*ii*) Whether impugned finding of refusing full back wages to three employees and 2/3 wages to one employee, is justifiable ?

(*iii*) What order ?

11. My findings, on above points, are as under.—

(*i*) Yes.

(*ii*) No., only to the exte of refusing 2/3 back wages to three employees.

(*iii*) Revision application (ULP) No. 53 of 2001 is partly allowed. Revision application (ULP) No. 71 of 1999 is dismissed.

Reasons

12. Factual position regarding strike notice given by the Complainant Union is no longer in dispute. It has come on the record that the Milk Society filed Complainant (ULP) No.98/85 before this Court against President of the Complainant Union alleging unfair labour practice under items 1 and 5 of schedule III of the M.R.T.U. and P.U.L.P. Act, wherein the Complainant union was restrained from commencing strike as per the strike-notice and then strike did not commence. It has further come on the record that the Union filed Reference (ULP) No. 5/85 on 22nd August 1986 before the Labour Court, Kolhapur raising similar grievances like rained in this complaint, wherein the Milk Society agreed to give work and stated accordingly in writing on the interim relief application, therein.

13. It appears that disputes raised between the Union and the Milk Society on account of employing employees of bakery devision on weekly offs but non-payment of double wages. Society's witnesses Shri Dhanavade denied that the bakery division had weekly off on every Monday and employees thereunder were directed to work even on weekly off days. However, Society's another witness Sadashiv Gurav has stated that bakery workers had weekly off on every Monday but were required to work on weekly offs for four days by paying wages one one day. Thus, statements of both witnesses are contrary and inconsistent to each other.

14. The Society preferred to file written arguments (Exh. C-7). It is contended that the Milk Society firstly approached the Court and obtained the stay to the strike. The Investigating Officer was appointed in its Complaint (ULP) No. 58/95, who has reported that employees in question did not join duties while other employee joined. As such, plea of oral termination is totally after thought. In addition, in-ordinate delay in filing the complaint coupled with gainful employees of four employees in question, falcify plea of oral termination.

15. It is not in dispute that concerned employees approached concerned Government Labour Officer alleging that they are not given work from 13th August 1985, the Government Labour Officer then visited the Society on 16th August 1985 and after discussions, the Society agreed to give work with effect 17th August 1985. Then work started from 17th August 1985, there was Monday on 19th August 1985 and therefore, the employees availed weekly off. Therefore, Reference (ULP) No. 5/85 was filed by employees on 22nd August 1985.

16. Shri Jangale, learned representative of the Complainant Union argued that plea of the Union is consistant and the same is reflected like approaching Government Labour Officer and hence after its intervention, filed Reference (ULP) No. 5/85 on 22nd August 1985. Besides, there is no evidence on record to show that the Society issued notices to concerned employees contending that they are absent and no enquiries are initiated against them on the ground of absenteesm. All concerned employees stated to the Enquiry Officer that they will not allow to join duties unless signed on blank papers and such observations are made in judgment delivered in Society's Complaint (ULP) No. 98/85. As such, Investigating Officer's Report neither falsified plea of concerned employees nor support plea of the Society.

17. It appears from the facts noticed by learned Labour Court that concerned employees were deligent from time to time and their plea raised in this complaint are consistant since beginning. It is settled law that even in case of abandonment of service, enquiry is necessary and in the absence of the same, abandonment of service cannot be established and it amounts to termination of services. It is held in *Uptron India Ltd.* V/s. *Shami Bhan reported in 1998 I CLR at page 1043.* that services of a permanent employee cannot be terminated abruptly and arbitrarily either with or without notice, notwithstanding that there may be a stipulation to that effect either in the contract or service or in the certified standing orders. It is tryed to be explained by Society's witnesses that oral intimation was given to the concerned employees about resumption of duties. However, considering peculiar facts and circumstance of this case, his such versions cannot be accepted. No evidence is brought on record by the Society to show that concerned employees were informed regarding their absence or abandonment of service, apart from a formal enquiry. Admittedly, no chargesheet is served upon the employees. In such circumstances, the Labour Court has rightly recorded a finding of fact that services of four employees were orally terminated. Reasoning thereof is logical, justifiable and warrants no interference. Investigating Officer's report is not brought on record but contents thereof are referred in Complaint (ULP) No. 58 of 1985. It is neither held nor observed that concerned employees did not resume duties. It is observed that employees did not went on strike, nor issuance of a strike notice, is inconsequential and ultimately plea is liable to be dismissed. Accordingly, I answer Point No. 1 in the affirmative.

18. Learned Labour Court has observed that employee Nadaf was plying as auto-rishaw, was earning Rs. 25 per day and thus gainfully employed as his daily wages at the material time were Rs. 35 per day, excluding bonus and other benefits. It, therefore, held that payment of $^{1}/_{3}$ back wages will be proper.

19. Learned Labour Court has further observed that employee Khataki and his brother has got a bucher's shop wherein Shri Khataki earns Rs. 100 to Rs. 150 per week. As such, he is earning substantially and maintaining himself and his family. It then held that payment of $^{1}/_{3}$ back wages to him will be proper.

20. As regards, third employee Shri Ghunke, it is held by learned Labour Court that he admits to be earning Rs. 30 per day by doing agricultural work, took loan for purchasing a buffalow and re-paying the same. It therefore granted $^{1}/_{3}$ back wages to him.

21. As regards employee Shri Hazare, learned Labour Court found that he is running a bakery and sales bakery items. It then observed that such fact is not disclosed by Shri Hazare, cannot be said to be unemployed but is gainfully employed all the while.

22. Shri Jangale, submitted that the Labour Court has much proceeded with conjunctures and surmises and reasons putforth to deviate from normal rule of granting full back wages, are totally unjustified. The concerned employees have to earn something to maintain themselves and their family members. Plying a rikshaw, working in a butcher's shop and doing agricultural work cannot be said to a gainful employment. If concerned employees get themselves busy during enforced idleness, it nowhere amounts to gainful employment. They were expected to survive and maintain their family members and hence resorted to a valuable resources of livelihood. In support of his arguments, he replied on a decision in *R. K. Kinra* V/s. *Delhi Administration reported in 1984 (49) FLR @at page 424.*

23. Shri Jangale further argued that the very effect of termination of concerned employees without enquiry, cannot be ignored at any costs. There are absolutely no reasons for refusal to grant back wages.

24. Advocate Shri Pise replied that concerned employees were gainfully employed, earning more income than in the employment and hence are not entitled to any back wages.

25. It is held in R. K. Kinara's case that helping father-in-law in his business and leving with him with family members cannot be characterised as gainful employment. Relying upon such observations, it is held in *Metro Tyres Ltd.* V/s. *Presiding Officer, Ludhiyana* reported in *1987 II CLR at page 1201 (Punjab and Haryana H. C.)* that doing agricultural operation for earning livelihood cannot be equated with gainful employment and workman's claim for back wages cannot be rejected on that ground. It is also held in *State of Madhya Pradesh* V/s. *Chhotemiyan reported in 1997 II CLR at page 236* that working as a tailer alone would not be enough to refuse back wages, gainful employment is to be proved and not mere employment. It is well established legal postion that once termination order is held as bad in law, normal rule of granting full back wages follows, unless there are special circumstances to retract from such rule. No doubt, there is delay in filing the complaint. For that purpose, back wages for the period of delay can well be refused. In the present case, the three employees (Shri Nadaf, Khataki and Ghunake) are earning for their livelihood and cannot be said to be gainfully employed. Shri Nadar was earning Rs. 25 per day by plying an auto-rikshaw. As such, mode to maintain himself and his family members cannot be said to be gainfuly employed. Same is the case of other two employees. Shri Khataki was earning Rs. 100 to Rs. 150 per week by wlring in butcher's shop whereas Shri Ghunake was doing agricultural work. As such, observations of learned Labour Court that they were earning substantially, do not stand to reason. learned Labour Court appears to be much influenced regarding period of back wages, as the complaint is filed in the year 1991 and came to be decided on 7th May 1999. However, concerned three employees cannot be blamed for that. I, therefore, find that learned Labour Court has much proceeded with conjunctures and surmises regarding alleged substantive employment of the three employees. There are no valid and justifiable reasons to deviate from the normal rule. It is an error apparant on the face of the record which needs revisional interference.

26. As regards employee Shri Hazare, he has not stated about his income from the bakery business. Shri Jangale tried to explain that it is his ancestral business and he was getting income thereof even while working with Milk Society. I am not much impressed by his arguments as there is no material of record to come to such a conclusion. As such, no interference is called for regarding refusal of back wages to Shri Hazare. Consequently, I hold that employees at Sr. Nos. 1, 3 and 4 are entitled to full back wages from the date of presentation of the complaint till actual reinstatement. I answer point No. 2 accordingly.

27. No serious arguments were made by either parties regarding condonation of delay and *locus standi* of the Complainant Union to file the complaint. Even otherwise, find that learned Labour Court has rightly held that here are good and sufficient reasons for condonation of relay and the Complainant has *locus standi* to file the complaint.

28. To summarise, impugned finding that oral termination four employees in question is an unfair labour practice to Milk Society is well justifiable. Refusal of 2/3 back wages to the three employees (Sr. Nos. 1, 3 and 4) is unsustainable in law as they were earning for their livelihood and were not gainfully employed, as such. learned Labour Court is totally unjustified in refusing 2/3 back wages to them and there are no good grounds to deviate from the rule of granting full back wages, while directing reinstatement. As such, interference to that effect is warranted. Delay in filing the complaint is rightly condoned and the Complainant - Union has *locus standi* to file the complaint.

29. In view of above observations and findings, Milk Society's revision application is liable to be dismissed whereas Union's revision application is liable to be allowed by directing full back wages to the three employees from the date of presentation of the complaint.

30. To conclude, I pass following order :—

Order

(*i*) The revision application No. 53 of 2001 is partly allowed.

(*ii*) Impugned decision to the extent of refusing 2/3 back wages to the three employees (Sr. Nos. 1, 3 and 4) is set aside and the Milk Society is directed to pay full back wages to them with effect from 4th January 1991. Impugned decision except refusal of 2/3 back wages to the three employees is confirmed.

(*iii*) Revision application (ULP) No. 71 of 1999 is dismissed.

(*iv*) Copy of this judgment be kept in other revision.

(*v*) Parties to bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
dated the 23rd April 2003.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 39 OF 2002.—Mukund Annasaheb Deshmukh, 546, C-Ward, Bindu Chowk, Behind K.D.C.C. Bank Branch, Kolhapur.—*Petitioner—Versus*—Maharashtra State Road Transport Corporation, Kolhapur Division, Kolhapur, through its Divisional Controller.—*Respondent.*

In the matter of revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri B. D. Manolkar, Advocate for the Petitioner.
Shri M. G. Badadare, Advocate for the Respondent.

Judgment

This is a revision by original Complainant challenging legality of a judgment and order passed in Complaint (ULP) No. 239 of 1998 by Labour Court, Kolhapur, whereby his complaint alleging unfair labour practice is dismissed.

2. Admittedly, present Petitioner (hereinafter called as the Complainant) joined present Respondent Maharashtra State Road Transport Corporation (hereinafter referred to as the Corporation) as a helper in the year 1982. He was then promoted as " Assistant Artisan - C " in the year 1991. There were general elections of Kolhapur Municipal Corporation in the year 1995. The Complainant decided to contest the election, filled in requisite application and it was found valid in the scrutiny.

3. It is also an admitted position that Depot Manager of Ichalkaranji Depot then made a report to the Divisional Controller of Kolhapur about Complainant's candidature and contesting the election without permission of the Corporation. Consequently, the Corporation served chargesheet dated 31st December 1995 upon the Complainant alleging misconducts under clauses 10 (indiscipline), 22 (breach of any administrative orders) and 34 (taking active part in politics or stand for election without prior permission) of its Discipline and Appeal rules. Then an enquiry took place. The Enquiry Officer held that the charges are proved. The Corporation accepted finding of the Enquiry Officer and issued show cause notice dated 6th August 1998 to the Complainant as to why he should not be awarded punishment of dismissal from service.

4. Above complaint was filed on 10th August 1998, *inter alia,* contending that every citizan has fundamental right to contest the election, no restrictions can be put on exercise of such right and Corporation's rule curtailing fundamental right of the Complainant to contest the election is nul and void-ab-initio. Contesting the election by the Complainant is not a misconduct and he cannot be punishment branding the same to be a misconduct. It is further contended, in the alternate, that the Complainant made application as a dummy candidate and never intended to actually contest the election. However, he fell ill, was admitted in the hospital and could not withdraw his application as a candidate, within time. Consequently, his name was printed on the ballot paper. In fact, the Corporation was aware of his illness as he applied for medical leave supported by a medical certificate. Medical leave was granted to him. He put all such facts on record in the explanation to the chargesheet. Even then, the enquiry was conducted. It is also contended that the enquiry is not fair and proper, findings of the Enquiry Officer are totally perverse and proposed punishment of dismissal is shockingly disproportionate. Finally, the Complainant prayed for declaration of an unfair labour practice, setting aside the chargesheet, enquiry and show cause notice and direction to continue him in employment without any displinary action for misdonducts alleged in the chargesheet.

5. The Complainant also made an application under section 30(*2*) of the M.R.T.U. and P.U.L.P. Act to restrain the Corporation from terminating his service, pending the hearing and final disposal of main complaint, learned Labour Court passed ad-interim order restraining the Corporation from dismissing or discharging the Complainant till next date, with show cause notice.

6. The Corporation filed its written statement at Exh. C-10 and traversed some of the material allegations made by the Complainant. It contended that its Board of Directors have passed Resolution No. 91 on 29th September 1991 that no employee shall take part in politics or contest election of local body. The Complainant was aware of the same, however, contested the election as a genuine candidate and not as a dummy. The Complainant ought to have resigned from the services of the Corporation as per its rules and regulations, prior to contesting the election or ought to have obtained prior permission. Therefore, he was rightly chargesheeted. The enquiry is in accordance with principles of natural justice and findings of the Enquiry Officer are not perverse. Beside, Complainant's past record is full of misconducts, has committed 15 misconducts and is in the habit of violating rules and regulations of the Corporation. Complainant's past record was considered while proposing punishment of dismissal. Proposed punishment is not shockingly disproportionate but well commensurate with the gravity of proved misconducts. Thus, the Corporation justified its action and prayed for dismissal of interim application as well as the complaint.

7. The parties then went to the trial. The Complainant admitted legality and fairness of the enquiry. Both parties filed joint pursis that they do not wish to lead oral evidence.

8. The Complainant produced copies of chargesheet, enquiry papers, findings of the Enquiry Officer and final show cause notice. The Corporation produced copies of its circulars, entire enquiry papers, findings of the Enquiry Officer and Complainant's default card, with list Exh. C-11.

9. Learned Labour Court, on perusal of documentary evidence and hearing both parties, held that findings of the Enquiry Officer are not perverse but well justifiable. It then held that proved misconduct is serious one, cannot be said to be minor or of technical nature and Complainant's past record shows 15 punishments. It then held that cumulative assessment of all facts does not brand proposed punishment to be shockingly dispoportionate and it is not an unfair labour practice. Finally, it dismissed the complaint *vide* judgment and order dated 8th April 2002. The same is challenged in this Revision.

10. I heard both Advocates at length. Considering rival submissions, following points arise for my determination :—

(*i*) Whether impugned finding that findings of the Enquiry Officer are legal and proper, is justifiable ?

(*ii*) Whether impugned finding that proposed punishment is not an unfair labour practice, is justifiable ?

(*iii*) What order ?

11. My findings, on above points, are as under :—

(*i*) Yes.

(*ii*) Yes.

(*iii*) The revision application is dismissed.

Reasons

12. This being a revision under section 44 of the M.R.T.U. and P.U.L.P. Act, it is not necessary to scrutinise rival contentions meticulourly. The only material question is whether documents on record are incapable of supporting impugned decision ? In other words, whether impugned decision is perverse or justifiable ?

13. Shri Manolkar, learned Advocate representing the Complainant argued, in the first phase, that contesting an election is a fundamental right of every citizen. Same cannot be withheld or curtailed in any manner and hence the chargesheet itself is bad in law. For that end, he placed reliance on the decision in *Bombay University and College Teacher's Union* V/s. *State of Maharashtra reported in 1990 (61) Factories and Labour Reporter at page 459.*

14. Shri Badadare, learned Advocate representing the Corporation replied that Corporation's Discipline and Appeal Rules is framed under section 34 of the State Transport Corporation Act, it has legal sanction wherein participation in politics or contesting election of local bodies is specifically stated as an act of misconduct and the same will prevail.

15. There is merit in arguments of Advocate Shri Badadare. The Discipline and Appeal Procedure is framed in exercise of powers under section 34 of the State Transport Corporation Act and it has legal sanction. Consequently, it cannot be agitated in a proceeding under the M.R.T.U. and P.U.L.P. Act that misconduct under clause 34 of Discipline and Appeal Rules cannot be a misconduct. Rules of the Corporation were in existance at the relevant time and would be specifically applicable to the Complainant. As such, arguments of Advocate Shri Manolkar cannot be subscribed.

16. It is not in dispute that the Complainant neither resigned prior to contesting the election nor obtained prior permission for contesting the election. Clause 34 of the Discipline and Appeal Procedure says that participation in politics or contesting an election of local bodies is a misconduct. It is not case of the Complainant he never contested the election. It is his plea that he was a dummy candidate and was unable to withdraw his application on account of illness. But it is glaring to note that he was not on duty on the date of election. Advocate Shri Badadare rightly submitted that Depot Manager at Ichalkaranji was un aware of Complainant's candidature and hence granted medical leave to the Complainant. No evidence was produced before the Enquiry Officer to establish that the Complainant was illegal, was a dummy candidate and was unable to withdraw his application. Thus, learned labour Court has rightly held that findings of the Enquiry Officer are not perverse but legal and proper. Accordingly, I answer Point No. 1 in the affirmative.

17. Shri Manolkar argued, in the second phase, that contesting an election without prior permission of the Corporation cannot be said to be major misconduct warranting extreme punishment of dismissal. On the contrary, it is misconduct of a minor or technical charater. There was no loss to the Corporation due to alleged misconducts. He then submitted that learned labour Court, Sholapur has held in similar case that punishment of dismissal is disproportionate.

18. Shri Badadare, replied that clause 7 of the Discipline and Appeal Procedure deals with quantum of punishment to be awarded for Act proved against each of the items of Schedule 'A'. Schedule 'B' provides Acts of minor lapses and deliquencies punishment of dismissal is provided for Acts of misconducts stated in Schedule 'A' of the Rules. There are circulars that an employee intending to contest an election should resign prior to participating in the election. Thus amplitude of the misconduct is grave and serious. He then explained that an employee who wishes to contest election of local bodies has a peculiar character, tries to bring politics in the management of the Corporation which ultimately, affects its smooth functioning. Such an employee cannot be continued in the employment and such is the logic of misconduct under item 34 of the Discipline and Appeal Procedure. The Complainant is well aware of all circulars. Besides, his past record is well indicative of violating rules and regulations of the corporation, from time to time. He was punished from time to time but did not improve. All such facts were considered and then punishment of dismissal was proposed.

19. My Learned Predecessor, while deciding Revision Application (ULP) No. 155 of 93 has observed that participation in the politics and contesting an election without permission of the Corporation is a serious misconduct and hence the punishment of dismissal is just and proper. In that case, the delinquent employee was working as a driver of the Corporation, contested election of the Gram-panchayat without permission of the Corporation and was dismissed for proved misconducts. Learned Labour Court has relied upon observations therein. It has further observed that the Complainant was awarded 15 punishments in the past, is habituated to breach of the Rules and Regulations of the Corporation and hence punishment of dismissal cannot be said as disproportionate.

20. In my judgment, proved misconducts cannot be said to be of a minor or technical character. It cannot be ignored that the Complainant is punished 15 times in the past for breach of rules and regulations of the Corporation but there was no improvement on his part. Learned Labour Court, has, therefore rightly observed that he is habituated to misconducts. Besides, he was aware of various circulars issued by the Corporation from time to time regarding permission to contest the election as well as to resign prior to participation in the election. Even then, he has not cared to abide by the same for no justifiable reasons. It is not his case that he is unaware of the permission and contested the election in good faith. Misconduct under clause 34 of the Discipline and Appeal Procedure is major one for which a punishment of dismissal is provided. The proved misconduct is not covered in the Acts of minor lapses and delinquencies stated in Schedule ' B ' of the Procedure. The words used under item 1(g) of schedule IV of the M.R.T.U. and P.U.L.P. Act are "shockingly disproprtionate." Thus, the emphasis is on 'shocking disproportionalety' and nor mere disproportionality. Shri Badadare, rightly submitted that indulgence of an employee in a politics is deterimental to smooth functioning of the Corporation and hence the same is shown as misconduct and not as Acts of minor lapses and delinquencies. The circulars are issued by the Corporation bearing various facts in mind. In such circumstances, it cannot be accepted that proposed punishment of dismissal is shockingly disproportionate and an unfair labour practice. I, therefore, find that Learned Labour Court has rightly held that no unfair labour practice is proved. Accordingly, I answer Point No. 2 in the affirmative.

21. To summarise, there is no perversity or arbitrariness in impugned decision. On the contrary, there is every substance in its reasoning. Revisional interference is called for when there is an apparent error on the face of the record. No case is made out for such interference. As such, the revision application is liable to be dismissed.

22. To conclude, I pass following order :—

Order

(*i*) The revision application is dismissed.

(*ii*) Parties shall bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 2nd May 2003.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

———

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, AT KOLHAPUR

REVISION APPLICATION (ULP) No. 289 OF 1995.—Smt. Ruda Vijay Pawar, Priti Sadan, Mission Compound, Vengurle, Tal. Vengurle, Dist. Sindhudurg. —*Petitioner*.—*Versus*—The Civil Surgeon, Sindhudurga, At Post and Taluka Savantwadi, Sindhudurg Dist.—*Respondent.*

In the matter of Revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act, 1971.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri D. N. Patil, Advocate for the Petitioner.
Shri S. R. Pisal, Assistant Government Pleader for Respondent.

Judgment

This is a revision by original Complainant challenging legality of a judgment and order passed in Complaint (ULP) No. 143 of 1991 by Labour Court, Kolhapur to the extent of refusal of back wages while granting reinstatement with continuity of service, by partly allowing his complaint.

2. Admittedly, present Petitioner Complainant was firstly appointed as a ward-attendant on 29 days basis at Rural Hospital, Kankavali, until further orders, by the Deputy Director of Health Service. She then continued to work with notional breaks of one day after every 29 days from 2nd April 1984 and worked till 13th June 1989. She then filed above complaint against present Respondent alleging unfair labour practice under item 1 of schedule IV of the M.R.T.U. and P.U.L.P. Act. She also made an application (Exh. U-5) alongwith the complaint for condonation of delay, which was allowed on merits on 15th April 1993. The Respondent contested the complaint on various grounds.

3. Learned Labour Court, on perusal of evidence and hearing both parties, held that Complainant's termination is in violation of mandatory provisions of section 25F of the I.D. Act. and an unfair labour practice. It then observed that both parties have failed to lead evidence about gainful employment or otherwise during the intervening idle period and therefore, the Complainant is not entitled to back wages. Ultimately, it directed reinstatement with continuity of service but without back wages by judgment and order dated 12th December 1994. Impugned decision to the extent of refusal of back wages is challenged in this revision. The Respondent has not challenged affirmative finding of an unfair labour practice.

4. I heard both sides. Considering rival submissions, following points arise for my determination :—

(*i*) Whether impugned finding refusing to grant back wages is justifiable ?

(*ii*) What order ?

5. My findings, on above points, are as under :—

(*i*) No,

(*ii*) The revision application is partly allowed.

Reasons

6. I must state, at the beginning itself, that it was not the case of the Respondent before the Labour Court that the Complainant is gainfully employed. The Complainant while examining herself on oath before the Labour Court has deposed that her occupation is 'nil'. She further deposed that she has prayed for reinstatement with continuity of service and back-wages. It is nowhere suggested to her during her cross examination that she is gainfully employed or is working elsewhere. No oral evidence was led before the labour Court by the Respondent.

7. Shri Patil, Learned Advocate representing the Complainant submitted that it was for the Respondent to prove that the Complainant was gainfully employed and then to object for granting back wages. In fact, the Complainant was working as Ward-attendant and cannot get employment or rather gainful employment elsewhere. In such circumstances, normal rule of granting full back wages was legal and proper and there were no exceptional circumstances to depart from such rule. Observations that none of the parties led evidence have no legal sanction and it is an error apparant on the face of the record. He relied on the decision of Hon'ble Apex Court in *M/s. Hindustan Tin Workers* V/s. *Hindustan Tin Pvt. Ltd. reported in AIR 1979 (SC) at page 75* and many later decisions including the latest one in *Kishore S. Kasare* V/s. *S. Kumar Group of Companies and others reported in 2003 I CLR at page 350 (Bom. H. C.).*

8. Shri Pisal, Learned Assistant Government Pleader representing the Respondent replied that the complaint was filed late and delay thereof is condoned. No evidence is led by the Complainant to establish that she was unemployed during the intervening idle period and therefore, the Labour Court has rightly refused back wages.

9. Decision in Hindustan Tin Works Pvt. Ltd.'s case (referred above) is referred in later decision in Kachare's case (referred above). It is observed that oridinarily a workman whose services have been illegally terminated, will be entitled to full back wages except to the extent he is gainfully employed during the enforced idle period and that is the normal rule. It is then observed that if the workmen are always ready to work but they were kept away therefrom on account of invalid act of the employer, there is no justification for not awarding them full back wages which were very legitimately due to them. It is observed in Kasare's case (referred above) that an employer who objects to the grant of back wages must plead and prove that the workman concerned was gainfully employed during the interregnum. Observation in these two decisions is a clear answer to the controversy. There are no exceptional circumstances so as to deprive the Complainant from back wages. No doubt, there is delay in filing the complaint. Consequently, the Complainant will not be entitled to back wages for the period from her termination till presentation of the complaint. In such circumstances, I hold that learned labour Court ought to have resorted to normal rule of granting full back wages and refusal to grant is an error apparent on the face of the record requiring revisional interference. The justification / reason that none of the parties have led evidence, does not stand to legal test especially when the termination is in violation of Section 25F of the I. D. Act. Complainant's termination / retrenchment was found to be illegal. Consequently, she was legitimately entitled to back wages from the date of presentation of the complaint till actual reinstatement. I, therefore, hold that impugned finding refusing to grant back wages is unjustifiable, answer Point No. 1 in the negative and pass following order :—

Order

(*i*) The Revision Application is partly allowed.

(*ii*) Impugned finding refusing to grant back wages is set-aside.

(*iii*) The Respondent is directed to pay full back-wages to the Complainant alongwith consequential reliefs thereof from the date of presentation of the complaint till actual reinstatement, within one month from to-day.

(*iv*) Parties to bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 4th July 2003.

(Sd.) V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

BEFORE THE INDUSTRIAL COURT, MAHARASHTRA AT KOLHAPUR

REVISION APPLICATION (ULP) No. 63 OF 2001.—Malakapur Municipal Council, Malakapur, through its Chief Officer.—*Petitioner*.—*Versus*—Shri Chandrashekhar Vitthal Kulkarni, Main Road, Malakapur, Tal. Shahuwadi, District Kolhapur.—*Respondent.*

In the matter of revision u/s. 44 of the M.R.T.U. and P.U.L.P. Act.

CORAM.—Shri C. A. Jadhav, Member.

Appearances.—Shri R. L. Chavan, Advocate for the Petitioner.
Shri S. S. Shevade, Advocate for the Respondent.

Judgment

This is a revision by original Respondent Malakapur Municipal Council challenging legality of order passed below Exh. U-2 in Complaint (ULP) No. 243 of 2000, whereby the Council is directed to temporarily allow present Respondent-Complainant to work on his previous post, till disposal of main complaint.

2. It is case of the Complainant that the Council orally appointed him as a peon on daily wage basis from the year 1978, then worked continously till 30th June 1995 but was orally terminated. He then made representation to higher authorities and then was orally reinstated with effect from 16th January 1993 as a peon on daily wages. He then worked initially in Octoi Department and then in other Departments of the Council. He was again terminated by order dated 31st October 2001 with effect from 1st November 2000 without giving one month's notice and retrenchment compensation, as provided under section 25F of the I. D. Act. It is further alleged that he has put in continous service and is entitled to permanency. His termination is an unfair labour practice under various clauses of item 1 of schedule IV of the M.R.T.U. and P.U.L.P. Act. He also made an application (Exh. U-2) for interim relief.

3. The Council filed its say cum written statement at Exh. C-15 admitting period of Complainant's employment but denied engagement in an unfair labour practice. It is case of the Council that it made various resolutions and sent to Director of Municipal Administration for approval to permanently appoint the Complainant. In the mean time, the Complainant was age barred and then another proposal was sent to the Director of Municipal Administration for relaxation of the age. However, the Director rejected the proposal. Then there was no alternate than to terminate his services. Finally the Council justified its action and prayed for dismissal of the Complaint.

4. Learned Labour Court, after hearing both parties, observed that the Complainant is not claiming status of permanency in his complaint and refusal to accord permanency to him by the Director of Municipal Administration does not entitle the Council to arbitrary terminate his service without following mandatory provision of Section 25F of the I. D. Act. It then observed that the Director has not directed the Council to terminate the Complainant without following mandatory provisions of Section 25F and 25G of the I. D. Act. It then held that termination is, *prima facie*, an unfair labour practice under item 1(*a*), (*b*), (*d*), (*f*) and (*g*) of schedule IV of the M.R.T.U. and P.U.L.P. Act and balance of convenience lies in favour of the Complainant. Consequently, it allowed the interim application, as above, said order is challenged in this Revision.

5. I heard both Advocates. Considering rival submissions, following points arise for my determination.—

(*i*) Whether impugned order granting interim relief, is justifiable ?

(*ii*) What order ?

6. My findings, on above points, are as under :—

(*i*) Yes.

(*ii*) The Revision Application is dismissed.

Reasons

7. The Council has not disputed Complainant's employment from the year 1978 till 30th June 1985 and thereafter from 16th January 1993 till 31st October 2002. It appears from pleadings of the Council that it sent proposal to the Director of Municipal Administration to appoint the Complainant permanently by relaxing his age but the same was rejected.

8. Shri Chavan, Learned Advocate representing the Council argued that the Complainant was appointed by the then President of the Council and that too without permission of Director of Municipal Administration. Besides, he was never appointed on a vacant or sanctioned post. Director of Municipal Administration is final authority regarding employment, permanency etc. Complainant's proposal was rejected by him and hence the Council had no alternate than to terminate his services. He further submitted that the Complainant was appointed by the then President of the Council, not by due process and is not entitled to any protection. For that end, he relied on the decision in *Nagajan Merubhal Gareja and Another* V/s. *Chhaya Nagar Palika and Another* reported *in 1999 II CLR at page 248 (Gujarat H. C.).* Finally, he submitted that the Labour Court totally ignored the manner in which the Complainant was appointed and is unjustified in granting interim relief.

9. Shri Shevade, Learned Advocate representing the Complainant countered above arguments and replied that it was never case of the Council that the Complainant is appointed illegally and not against vacant post. The proposal sent to the Director of Municipal Administration was only for relaxation of his age as well as to appoint permanently. As such, decision relied by Council's Advocate is in applicable. He then submitted that Director of Municipal Administration has neither directed to terminate the Complainant by flouting manadatory provisions under section 25F and 25G of the I. D. Act, nor can permit to do so. Complainant's termination is clearly covered by retrenchment as defined under section 2(00) of the I. D. Act. The Council is legally bound to follow provisions of Section 25F and 25G of the I. D. Act and termination, in violation of the same, is clearly a colourable exercise of powers and hasty Act. Finally, he supported impugned order.

10. It is interesting to note that the Council has no-where come with a case that the Complainant was appointed illegally and has no status to claim any protection. On the contrary, a proposal for relaxation of his age was sent to the Director of Municipal Administration. No material record is produced by the Council to show that the Complainant was not appointed against vacant post. As such, observation in Nagajan Merubhal Gareja V/s. Chhaya Nagar Palika are of no help to the Council.

11. It is also interesting to note that the Director of Municipal Administration has not directed or permitted the Council to terminate the Complainant by violating mandatory provisions of section 25F of the I. D. Act.

12. Advocate Shri Chavan submitted that the Complainant is not entitled to protection of section 25F of the I. D. Act, as is not appointed officially. However, as discussed above, such is not the case of the Council. Section 2(00) of the I. D. Act covers termination for any reason otherwise than as a punishment and some other categories. *Prima facie,* Complainant's termination amounts to retrenchment and therefore, the Council was under statutory obligation to comply mandatory provisions of section 25F of the I. D. Act. Section 25F of the I. D. Act does not distinguish between permanent and temporary workman. Even otherwise, illegality or irregularity in making appointment is no ground for refusing to follow mandatory provisions of section 25F of the I. D. Act. Such observations are made in *Municipal Board Pratapgrah and another* V/s. *Labour Court, Bhilwara and Others reported in 2003 I CLR at page 952.* As such, Learned Labour Court has rightly held that Complainant's termination is colourable exercise of powers and with undue haste and warrants no interference. Accordingly, I answer point No. 1 in the negative.

13. To summarise, impugned order is well justifiable and nowhere spells of arbitrariness or parversity on the contrary, there is every substance in its reasoning and there is no merit in this Revision Application.

14. In the result, I pass following order.—

Order

(*i*) The revision Application is dismissed.

(*ii*) R. and P. be sent to Labour Court and the parties shall appear there on 7th July 2003.

(*iii*) Parties shall bear their own costs.

C. A. JADHAV,
Member,
Industrial Court, Kolhapur.

Kolhapur,
Dated the 23rd June 2003.

V. D. PARDESHI,
Asstt. Registrar,
Industrial Court, Kolhapur.

पुढील अधिसूचना इत्यादी असाधारण राजपत्र म्हणून त्यांच्यासमोर दर्शविलेल्या दिनांकांना प्रसिद्ध झाल्या आहेत :—

८३

सोमवार, जुलै १५, २०१३/आषाढ २४, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक १२ जुलै २०१३

अधिसूचना

कारखाने अधिनियम, १९४८.

क्रमांक एफएसी. २०१३/प्र.क्र. १८०/कामगार-४.— कारखाने अधिनियम, १९४८ च्या कलम ६६(१)(ब) मधील परंतुकान्वये प्रदान करण्यात आलेल्या शक्तींचा वापर करून महाराष्ट्र शासन या अधिसूचनेद्वारे मे. इम्सोफर मॅन्युफॅक्चरींग इंडिया प्रा. लि., प्लॉट नं. एफ-१३, एम.आय.डी.सी., बारामती, जिल्हा पुणे ४१३ १३३ या कारखान्यास कारखाने अधिनियम, १९४८ मधील महिला कर्मचाऱ्यांच्या कामाच्या वेळेसंबंधी असणाऱ्या तरतुदीमधून सूट देत असून याबाबत संमती असणाऱ्या महिला कर्मचाऱ्यांना सकाळी ५-०० ते सायंकाळी १०-०० वाजेपर्यंतच्या कालावधीकरिता काम करण्यास सदर अधिसूचना निर्गमित झाल्याच्या दिनांकापासून पुढील १ वर्षाच्या कालावधीकरिता परवानगी देत आहे. सदर सूट ही खालील अटींच्या अधिन राहून देण्यात येत आहे :–

अटी

(१) कोणत्याही महिला कामगारास रात्री १०-०० वाजल्यापासून सकाळी ५-०० वाजेपर्यंत कामावर ठेवू नये.

(२) व्यवस्थापनाने महिला कामगारांना, कामगारांच्या निवासस्थानापासून, कारखान्यापर्यंत व पुन्हा परत त्यांच्या निवासस्थानापर्यंत त्यांना ने-आण करण्यासाठी बस किंवा मोटरगाड्यातून विनामूल्य सोय केली पाहिजे. तसेच त्यांना कामावर येताना, जाताना व कामाच्या ठिकाणी सुरक्षिततेची पुरेशी व्यवस्था केली पाहिजे.

(३) स्त्री कर्मचाऱ्यांच्या कामाच्या ठिकाणी व्यवस्थापनाने निवासस्थान ते आस्थापना व आस्थापना ते निवासस्थानाच्या वाहतुकीमध्ये स्त्री सुरक्षा रक्षकाची नियुक्ती करण्यात यावी. सकाळी ५-०० ते दुपारी २-०० व दुपारी २-०० ते रात्री १०-०० या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांच्या १ ते १० संख्येला १ महिला सुरक्षा रक्षक नेमण्यात यावी. त्याच पटीत पुढे सुरक्षा रक्षक नेमण्यात यावेत. स्त्री सुरक्षा रक्षकांना स्वसंरक्षणार्थ व त्यांच्या देखरेखीखाली असलेल्या स्त्री कर्मचाऱ्यांच्या संरक्षणाकरिता ज्युडो, कराटे इत्यादींचे प्रशिक्षण देण्यात यावे.

(४) स्त्री कर्मचाऱ्यांकरिता स्वतंत्र लॉकर्सची व्यवस्था करण्यात यावी व स्त्री कर्मचाऱ्यांच्या विश्रांतीकरिता विश्रांती कक्ष निर्माण करण्यात यावा. या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांना किमान पाच स्त्री कर्मचाऱ्यांच्या गटागटाने काम करण्यास देण्यात यावे.

(५) प्रत्येक स्त्री कर्मचाऱ्यास प्रत्येक सप्ताहामध्ये आलटून पालटून साप्ताहिक सुट्टी कोणत्याही प्रकारची वेतनातून कपात न करता देण्यात यावी. कर्मचाऱ्यांना आठवड्यात गटागटाने सुट्टी देण्यात यावी.

(६) साप्ताहिक सुट्टीचे वेळापत्रक प्रत्येक महिन्याच्या शेवटच्या दिवशी कर्मचाऱ्याच्या माहितीसाठी सूचनाफलकावर प्रदर्शित करावे. कोणत्याही कर्मचाऱ्यास साप्ताहिक रजेपासून वंचित केले जाणार नाही. त्यांना आठवड्याची भरपगारी रजा दिली जाईल.

(७) कर्मचाऱ्याच्या जादा कामाचा भत्ता, कामाचा विस्तार कालावधी व इतर अनुषंगिक बाबींबाबत कारखाने अधिनियम व महाराष्ट्र कारखाने नियम यामधील तरतुदींचे पालन करणे आवश्यक आहे.

(८) महिला कामगारांचे ६ वर्षांपेक्षा लहान मुलांसाठी पाळणाघराची सुविधा उपलब्ध केली पाहिजे.

(९) पाळणाघराच्या व्यवस्थेचा फायदा घेण्याकरिता जे कामगार आपली लहान मुले कारखान्यात आणू इच्छितात त्या मुलांनाही उपरोक्त अट क्रमांक ८ मधील सुविधा कारखाना व्यवस्थापनाने उपलब्ध करून दिली पाहिजे.

(१०) सदर सूट ही या प्रस्तावासोबत संमतीपत्र देणाऱ्या महिलांकरिताच लागू राहिल. या सूटबाबत संमती देणाऱ्या महिलांची किंवा युनियनची तक्रार असल्यास त्यांच्याबाबतीत सदर सवलत लागू राहणार नाही.

(११) व्यवस्थापनाने सदर सूट मिळालेल्या अधिसूचनेची प्रत ठळकपणे, सर्व महिला कर्मचाऱ्यांच्या माहितीकरिता सूचना फलकावर प्रदर्शित केली पाहिजे.

(१२) महिला कर्मचाऱ्यांच्या वेळेच्या संबंधात मा. उच्च न्यायालय, मद्रास यांनी रिट पिटीशन क्रमांक ४३६०/९९ या केसमध्ये दिलेल्या मार्गदर्शक तत्त्वांचे कारखाना व्यवस्थापनाने पालन केले पाहिजे.

(१३) वरील आस्थापनेस दिलेली सूट ही सदर अधिसूचना **राजपत्रात** प्रसिद्ध झाल्याच्या दिनांकापासून पुढे एक वर्षाच्या कालावधीकरिता अंमलात येईल.

(१४) वरील क्रमांक १ ते १२ च्या अटींचे व्यवस्थापनाकडून उल्लंघन झाल्यास वरीलप्रमाणे दिलेली सूट/सवलत आपोाप रद्द समजली जाईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रविकुमार पाटणकर,
कक्ष अधिकारी.

८४

सोमवार, जुलै १५, २०१३/आषाढ २४, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक १२ जुलै २०१३

अधिसूचना

कारखाने अधिनियम, १९४८.

क्रमांक एफएसी. २०१२/प्र.क्र. ११८/कामगार-४.— कारखाने अधिनियम, १९४८ च्या कलम ६६(१)(ब) मधील परंतुकान्वये प्रदान करण्यात आलेल्या शक्तींचा वापर करून महाराष्ट्र शासन या अधिसूचनेद्वारे मे. माहले फिल्टर सिस्टीम इंडिया लि., गट क्रमांक ४१०/४११, मौजे उरवडे, तालुका मुळशी, जिल्हा पुणे ४११ ०४२ या कारखान्यास कारखाने अधिनियम, १९४८ मधील महिला कर्मचाऱ्यांच्या कामाच्या वेळेसंबंधी असणाऱ्या तरतुदीमधून सूट देत असून याबाबत संमती असणाऱ्या महिला कर्मचाऱ्यांना सकाळी ५-०० ते सायंकाळी १०-०० वाजेपर्यंतच्या कालावधीकरिता काम करण्यास सदर अधिसूचना निर्गमित झाल्याच्या दिनांकापासून पुढील १ वर्षाच्या कालावधीकरिता परवानगी देत आहे. सदर सूट ही खालील अटींच्या अधीन राहून देण्यात येत आहे :–

अटी

(१) कोणत्याही महिला कामगारास रात्री १०-०० वाजल्यापासून सकाळी ५-०० वाजेपर्यंत कामावर ठेवू नये.

(२) व्यवस्थापनाने महिला कामगारांना, कामगारांच्या निवासस्थानापासून, कारखान्यापर्यंत व पुन्हा परत त्यांच्या निवासस्थानापर्यंत त्यांना ने-आण करण्यासाठी बस किंवा मोटरगाड्यातून विनामूल्य सोय केली पाहिजे. तसेच त्यांना कामावर येताना, जाताना व कामाच्या ठिकाणी सुरक्षिततेची पुरेशी व्यवस्था केली पाहिजे.

(३) स्त्री कर्मचाऱ्यांच्या कामाच्या ठिकाणी व्यवस्थापनाने निवासस्थान ते आस्थापना व आस्थापना ते निवासस्थानाच्या वाहतुकीमध्ये स्त्री सुरक्षा रक्षकाची नियुक्ती करण्यात यावी. सकाळी ५-०० ते दुपारी २-०० व दुपारी २-०० ते रात्री १०-०० या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांच्या १ ते १० संख्येला १ महिला सुरक्षा रक्षक नेमण्यात यावी. त्याच पटीत पुढे सुरक्षा रक्षक नेमण्यात यावेत. स्त्री सुरक्षा रक्षकांना स्वसंरक्षणार्थ व त्यांच्या देखरेखीखाली असलेल्या स्त्री कर्मचाऱ्यांच्या संरक्षणाकरिता ज्युडो, कराटे इत्यादींचे प्रशिक्षण देण्यात यावे.

(४) स्त्री कर्मचाऱ्यांकरिता स्वतंत्र लॉकर्सची व्यवस्था करण्यात यावी व स्त्री कर्मचाऱ्यांच्या विश्रांतीकरिता विश्रांती कक्ष निर्माण करण्यात यावा. या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांना किमान पाच स्त्री कर्मचाऱ्यांच्या गटागटाने काम करण्यास देण्यात यावे.

(५) प्रत्येक स्त्री कर्मचाऱ्यास प्रत्येक सप्ताहामध्ये आलटून पालटून साप्ताहिक सुट्टी कोणत्याही प्रकारची वेतनातून कपात न करता देण्यात यावी. कर्मचाऱ्यांना आठवड्यात गटागटाने सुट्टी देण्यात यावी.

(६) साप्ताहिक सुट्टीचे वेळापत्रक प्रत्येक महिन्याच्या शेवटच्या दिवशी कर्मचाऱ्याच्या माहितीसाठी सूचना फलकावर प्रदर्शित करावे. कोणत्याही कर्मचाऱ्यास साप्ताहिक रजेपासून वंचित केले जाणार नाही. त्यांना आठवड्याची भरपगारी रजा दिली जाईल.

(७) कर्मचाऱ्याच्या जादा कामाचा भत्ता, कामाचा विस्तार कालावधी व इतर अनुषंगिक बाबींबाबत कारखाने अधिनियम व महाराष्ट्र कारखाने नियम यामधील तरतुदींचे पालन करणे आवश्यक आहे.

(८) महिला कामगारांचे ६ वर्षांपेक्षा लहान मुलांसाठी पाळणाघराची सुविधा उपलब्ध केली पाहिजे.

(९) पाळणाघराच्या व्यवस्थेचा फायदा घेण्याकरिता जे कामगार आपली लहान मुले कारखान्यात आणू इच्छितात त्या मुलांनाही उपरोक्त अट क्रमांक ८ मधील सुविधा कारखाना व्यवस्थापनाने उपलब्ध करून दिली पाहिजे.

(१०) सदर सुट ही या प्रस्तावासोबत संमतीपत्र देणाऱ्या महिलांकरिताच लागू राहिल. या सूटबाबत संमती देणाऱ्या महिलांची किंवा युनियनची तक्रार असल्यास त्यांच्याबाबतीत सदर सवलत लागू राहणार नाही.

(११) व्यवस्थापनाने सदर सूट मिळालेल्या अधिसूचनेची प्रत ठळकपणे, सर्व महिला कर्मचाऱ्यांच्या माहितीकरिता सूचना फलकावर प्रदर्शित केली पाहिजे.

(१२) महिला कर्मचाऱ्यांच्या वेळेच्या संबंधात मा. उच्च न्यायालय मद्रास यांनी रिट पिटीशन क्रमांक ४३६०/९९ या केसमध्ये दिलेल्या मार्गदर्शक तत्त्वांचे कारखाना व्यवस्थापनाने पालन केले पाहिजे.

(१३) वरील आस्थापनेस दिलेली सूट ही सदर अधिसूचना **राजपत्रात** प्रसिद्ध झाल्याच्या दिनांकापासून पुढे एक वर्षाच्या कालावधीकरिता अंमलात येईल.

(१४) वरील क्रमांक १ ते १२ च्या अटींचे व्यवस्थापनाकडून उल्लंघन झाल्यास वरीलप्रमाणे दिलेली सूट/सवलत आपोआप रद्द समजली जाईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रविकुमार पाटणकर,
कक्ष अधिकारी.

८५

मंगळवार, जुलै १६, २०१३/आषाढ २५, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक १६ जुलै २०१३

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. ०४/२०१२/प्र.क्र. १०५/कामगार-१०.— महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा "उक्त अधिनियम" असा उल्लेख करण्यात आलेला आहे.) यांच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक "६१६" नंतर खालील नोंदीचा समावेश करण्यात येईल :—

"६१७ मे. झोडियाक क्लोदिंग कंपनी लि., आपटे प्रॉपर्टीज, १०/७६, डॉ. मोझेस रोड, वरळी, मुंबई ४०० ०१८ यांची खालील दुकाने :—

(१) झोडियाक क्लोदिंग कंपनी लि., शॉपिंग आर्केड, ताज महल इंटरकॉन्टिनेंटल, अपोलो बंदर, मुंबई ४०० ००१.

(२) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. एल १३, हिल्टन टॉवर्स, नरिमन पॉईंट, मुंबई ४०० ०२१.

(३) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. ५, सीआर २ मॉल, बजाज भवनसमोर, बॅकबे रेकलेमेशन, ब्लॉक नं. ३, नरिमन पॉईंट, मुंबई ४०० ०२१.

(४) झोडियाक क्लोदिंग कंपनी लि., शेट्टी हाऊस, मुंबई युनिव्हर्सिटी समोर, १०१, एम. जी. रोड, फोर्ट, कंदिल रेस्टॉरंटजवळ, मुंबई ४०० ००१.

उक्त अधिनियमाच्या कलम १८ मधून खालील शर्तींच्या अधीन राहून :—

(१) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकाराची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.

(२) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही.

(३) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर १ तासाची विश्रांती देण्यात यावी.

(४) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.

(५) महिला कर्मचाऱ्यांसाठी स्वतंत्र लॉकर, सुरक्षा व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.

(५) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. २, २६२, एल. टी. मार्ग, जी. टी. हॉस्पिटलसमोर, क्रॉफर्ड मार्केट, मुंबई ४०० ००२.

(६) झोडियाक क्लोदिंग कंपनी लि.,नेपियन्सी रोड, प्रियदर्शनी पार्कजवळ, रशियन कॉन्स्युलेटसमोर, मुंबई ४०० ००६.

(७) झोडियाक क्लोदिंग कंपनी लि., हाय स्ट्रिट फिनिक्स, जी-१३, सेनापती बापट मार्ग, लोअर परेल, मुंबई ४०० ०१३.

(८) झोडियाक क्लोदिंग कंपनी लि., बांद्रा लिंकिंग रोड, शॉपर्स स्टॉपसमोर, बांद्रा (प.), मुंबई ४०० ०५०.

(९) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. २, लिटील फ्लॉवर, ग्राऊंड फ्लोअर, लिंकिंग रोड, बांद्रा (प.), मुंबई ४०० ०५०.

(१०) झोडियाक क्लोदिंग कंपनी लि., ग्राऊंड फ्लोअर, बी-१ व बी-३, जय व्हिला, लिंकिंग रोड, सांताक्रुझ (प.), मुंबई.

(११) झोडियाक क्लोदिंग कंपनी लि., टर्मिनल १सी, छत्रपती शिवाजी इंटरनॅशनल एअरपोर्ट, सांताक्रुझ (पू.), मुंबई ४०० ०९९.

(१२) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. जी १७, ग्रॅण्ड हयात, एन्ट्री लेव्हल, वाकोला, सांताक्रुझ (पू.), मुंबई.

(१३) झोडियाक क्लोदिंग कंपनी लि., इनफिनिटी मॉल, शॉप नं. ००४, लोखंडवाला ॲण्ड लिंकिंग रोड जंक्शन, फेब ॲडलॅबजवळ, अंधेरी (प.), मुंबई ४०० ०५६.

(१४) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. जी ३७, इनऑर्बिट मॉल, ग्राऊंड फ्लोअर, माईंड स्पेस, लिंक रोड, मालाड (प.), मुंबई ४०० ०६४.

(१५) झोडियाक क्लोदिंग कंपनी लि., युनिट नं. जीएफ ०२४, इनफिनिटी मॉल, लिंक रोड, मालाड (प.), मुंबई ४०० ०६४.

(१६) झोडियाक क्लोदिंग कंपनी लि., ओबेरॉय मॉल, युनिट नं. एफ-१८, वेस्टर्न एक्सप्रेस हायवेजवळ, गोरेगाव (प.), मुंबई ४०० ०६३.

(१७) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. जी १, ग्राऊंड फ्लोअर, ब्रिटीश गॅस हाऊस, लेक बुलेवर्ड, हिरानंदानी गार्डन्स, पवई, मुंबई ४०० ०७६.

(६) आठवड्याच्या व इतर सुट्टीच्या दिवशी संमतीपत्र दिलेल्या कर्मचाऱ्यांनाच कामावर ठेवण्यात यावे.

(७) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीकरिता लागू राहील.

(८) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.

(९) वरील अटी व शर्तींव्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.

(१०) वरीलपैकी कोणत्याही अटींचा व शर्तींचा भंग झाल्यास सूट आपोआप रद्द होईल.".

(१८) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. एस-१११ (ए व ब), १ला मजला, डी ब्लॉक, निर्मल लाईफस्टाईल्स, एल.बी.एस. मार्ग, निर्मल नगरसमोर, मुलुंड (प.), मुंबई ४०० ०८०.

(१९) झोडियाक क्लोदिंग कंपनी लि., इनऑर्बिट मॉल, युनिट नं. जी-४४, ग्राऊंड फ्लोअर, सेक्टर ३०ए, नवी मुंबई, वाशी.

(२०) झोडियाक क्लोदिंग कंपनी लि., शॉप नं. ९, अप्सरा, प्लॉट नं. ५१, सेक्टर-१७, वाशी.

(२१) झोडियाक क्लोदिंग कंपनी लि., कोरम मॉल, स्टोअर नं. एफ-९, १ ला मजला, कॅडबरीपुढे, ठाणे (प.) ४०० ६०१.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अ. म. बाविस्कर
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 04/2012/C.R. 105/LAB-10, dated the 16th July 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 16th July 2013.

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 04/2012/C.R. 105/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Mah. LXXIX of 1948) (hereinafter referred to as the "said Act") the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry " 616 " the following Entry shall be added namely :—

" 617 The following shops of M/s. Zodiac Clothing Company Ltd., Apte Properties, 10/78, Off. Dr. E Moses Road, Worli, Mumbai 400 018 :—

(1) Zodiac Clothing Company Ltd., Shopping Arcade, Taj Mahal Intercontinental, Apollo Bunder, Mumbai 400 001.

(2) Zodiac Clothing Company Ltd., Shop No. L 13, Hilton Towers, Nariman Point, Mumbai 400 021.

(3) Zodiac Clothing Company Ltd., Shop No. 5, CR2 Mall, Opp. Bajaj Bhavan Backbay Reclamation, block No. III, Nariman Point, Mumbai 400 021.

(4) Zodiac Clothing Company Ltd., Shetty House, Opp. Mumbai University, 101, M. G. Road, Fort, Near Kandil Rest., Mumbai 400 001.

(5) Zodiac Clothing Company Ltd., Shop 2, 262, L. T. Marg, Opp. G. T. Hospital, Crawford Market, Mumbai 400 002.

Section 18 subject to the following condition :—

(1) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.

(2) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day.

(3) Every employee shall be given a rest period of one hour after 5 hours of continuous work.

(4) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.

(5) Female employees shall be provided separate lockers and rest rooms at the work place.

(6) The employees, who have given their consent be only placed on the day of weekly holiday or other holiday.

(7) This exemption shall remain in operation for the period of three years from the date of Notification published in *Government Gazette*.

(6) Zodiac Clothing Company Ltd., Napeansea Road, Near Priyadarshini Park, Opp. Russian Consulate, Mumbai 400 006.

(7) Zodiac Clothing Company Ltd., High Street Phoenix, G-13, Senapati Bapat Marg, Lower Parel, Mumbai 400 013.

(8) Zodiac Clothing Company Ltd., Bandra Linking Road, Opp. Shoppers Stop, Bandra (W.), Mumbai 400 050.

(9) Zodiac Clothing Company Ltd., Shop No. 2, Little Flower Ground Floor, Linking Road, Bandra (W.), Mumbai 400 050.

(10) Zodiac Clothing Company Ltd., Ground Floor, B-1 and B-3, Jay Villa, Linking Road, Santacruz (W.), Mumbai.

(11) Zodiac Clothing Company Ltd., Terminal 1C, Chatrapati Shivaji International Airport, Santacruz (E.), Mumbai 400 099.

(12) Zodiac Clothing Company Ltd., Shop No. G17, Grand Hyatt, Entry Level, Vakola, Santacruz (E.), Mumbai.

(13) Zodiac Clothing Company Ltd., Infiniti Mall, Shop No. 004, Lokhandwala and Linking Road Junction, Near Fame Adlabs, Andheri (W.), Mumbai 400 056.

(14) Zodiac Clothing Company Ltd., Shop No. G37, Inorbit Mall, Ground Floor, Mindspace, Link Road, Malad (W.), Mumbai 400 064.

(15) Zodiac Clothing Company Ltd., Unit No. GF-024, Infiniti Mall, Link Road, Malad (W.), Mumbai 400 064

(16) Zodiac Clothing Company Ltd., Oberoi Mall, Unit No. F-18, Off Western Express Highway, Goregaon (E.), Mumbai 400 063.

(17) Zodiac Clothing Company Ltd., Shop No. G1, Ground Floor, British Gas House, Lake Boulevard, Hiranandani Gardebs, Powai, Mumbai 400 076.

(8) This exemption is related only to Bombay shops and Establishment Act, 1948

(9) Inspite of these terms and conditions, all the provisions of this Act shall applicable to the establishment duly.

(10) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

(18) Zodiac Clothing Company Ltd., Shop No. S-111 (A and B), 1st Floor, D Block, Nirmal Lifestyles, L. B. S. Marg, Opp. Nirmal Nagar, Mulund (W.), Mumbai 400 080.

(19)Zodiac Clothing Company Ltd., Inorbit Mall, Unit No. G-44, Ground Floor, Sector-30A, New Mumbai, Vashi.

(20) Zodiac Clothing Company Ltd., Shop No. 9, Apsara, Plot No. 51, Sector-17, Vashi.

(21) Zodiac Clothing Company Ltd., Korum Mall, Store No. F-9, First Floor, Next to Cadbury, Thane (W.) 400 601.

By order and in the name of the Governor of Maharashtra,

A. M. BAVISKAR,
Section Officer.

८६

शनिवार, जुलै २०, २०१३/आषाढ २९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक २० जुलै २०१३

शुद्धिपत्र

महाराष्ट्र माथाडी, हमाल व इतर श्रमजीवी कामगार (नोकरीचे नियमन व कल्याण) अधिनियम, १९६९.

क्रमांक यूडब्ल्यूए. १३२००५/(१७२/४)/कामगार-५.—समक्रमांकाच्या दिनांक ६ फेब्रुवारी २०१३ च्या मराठी अधिसूचनेमध्ये मालकांचे प्रतिनिधीत्त्व करणारे सदस्य क्रमांक २ वरील " श्री. जालिंदर महादेव शिंदे " या ऐवजी " श्री. जालिंदर महादेव शेंडगे " असे वाचण्यात यावे.

महाराष्ट्र राज्याचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कि. गावडे,

शासनाचे उप सचिव.

In pursuance of Clause (3) of Articles 348 of the Constitution of India, the following translation in English of the Government Corrigendum, Industries, Energy and Labour Department, No. UWA. 132005/(172/4)/Lab-5, dated the 20th July 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,

Deputy Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 20th July 2013

CORRIGENDUM

MAHARASHTRA MATHADI, HAMAL AND OTHER MANUAL WORKERS (REGULATION OF EMPLOYMENT AND WELFARE) ACT, 1969.

No. UWA. 132005/(172/4)/LAB-5.—The Government Notification even number dated 6th February 2013.

In the aforesaid Notification, the name of the member at Sr. No. 2 representing the Employers, " Shri Jalinder Mahadeo Shinde " should be read as " Shri Jalinder Mahadeo Shendge ".

By order and in the name of the Governor of Maharashtra,

S. K. GAWADE,

Deputy Secretary to Government.

८७

शुक्रवार, जुलै २६, २०१३/श्रावण ४, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय, मुंबई ४०० ०३२, दिनांक २६ जुलै २०१३.

अधिसूचना

क्रमांक आयसीई.०६१३/प्र.क्र. ९५/काम-६.—मा. उच्च न्यायलय, मुंबई यांनी त्यांचे पत्र क्र.अे-१२२६/८३/४२२४/२०१३, दिनांक २९ जून २०१३ अन्वये श्री. मधुसुदनसिंग लक्ष्मणसिंग चौहान यांची सदस्य, औद्योगिक न्यायालय, मुंबई या पदासाठी दिनांक ३१ मे २०१३ रोजी केलेली शिफारस मागे घेतली असल्यामुळे श्री. मधुसुदनसिंग लक्ष्मणसिंग चौहान यांची सदस्य औद्योगिक न्यायालय, मुंबई या पदावर नियुक्ती केल्याबाबतची शासन अधिसूचना, सम क्र. दिनांक १८ जून २०१३ रद्द करण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of Clause (3) of article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. ICE.0613/ C.R. 95/Lab-6, dated the 26th July 2013, Extraordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 26th July 2013.

NOTIFICATION

No. ICE.0613/C.R. 95/Lab-6.—As the Hon'ble High Court, Mumbai has recalled the recommendation of Shri Madhusudansingh Laxmansingh Chouhan as Member, Industrial Court, Mumbai *vide* letter No. A-1226/83/2013, dated 29th June 2013, the Government of Maharashtra hereby cancels the notification of even number regarding appointment of Shri Madhusudansingh Laxmansingh Chouhan as Member, Industrial Court, Mumbai, dated 18th June 2013.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

८८

सोमवार, जुलै २९, २०१३/श्रावण ७, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

हुतात्मा राजगुरू चौक, मादाम कामा रोड, मंत्रालय, मुंबई ४०० ०३२, दिनांक २६ जुलै २०१३.

अधिसूचना

कारखाने अधिनियम, १९४८

क्रमांक एफएसी.२०१२/प्र.क्र. १२७/काम-४.—कारखाने अधिनियम, १९४८ च्या कलम ६६(१)(ब) मधील परंतुकान्वये प्रदान करण्यात आलेल्या शक्तींचा वापर करून महाराष्ट्र शासन या अधिसूचनेद्वारे बार्शी टेक्सटाईल मिल्स, २५५३, भोयरे रोड, पो. बॉक्स नं. ३०, बार्शी, जिल्हा सोलापूर ४१३ ४०१ या कारखान्यास कारखाने अधिनियम, १९४८ मधील महिला कर्मचाऱ्यांच्या कामाच्या वेळेसंबंधी असणाऱ्या तरतुदीमधून सूट देत असून याबाबत संमती असणाऱ्या महिला कर्मचाऱ्यांना सकाळी ५-०० ते सायंकाळी १०-०० वाजेपर्यंतच्या कालावधीकरिता काम करण्यास सदर अधिसूचना निर्गमित झाल्याच्या दिनांकापासून पुढील १ वर्षाच्या कालावधीकरिता परवानगी देत आहे. सदर सूट ही खालील अटींच्या अधीन राहून देण्यात येत आहे :—

अटी

(१) कोणत्याही महिला कामगारास रात्री १०-०० वाजल्यापासून सकाळी ५-०० वाजेपर्यंत कामावर ठेवू नये.

(२) व्यवस्थापनाने महिला कामगारांना, कामगारांच्या निवासस्थानापासून, कारखान्यापर्यंत व पुन्हा परत त्यांच्या निवासस्थानापर्यंत त्यांना ने-आण करण्यासाठी बस किंवा मोटारगाड्यातून विनामूल्य सोय केली पाहिजे. तसेच त्यांना कामावर येताना, जाताना व कामाच्या ठिकाणी सुरक्षिततेची पुरेशी व्यवस्था केली पाहिजे.

(३) स्त्री कर्मचाऱ्यांच्या कामाच्या ठिकाणी व्यवस्थापनाने निवासस्थान ते आस्थापना व आस्थापना ते निवासस्थानाच्या वाहतुकीमध्ये स्त्री सुरक्षा रक्षकाची नियुक्ती करण्यात यावी. सकाळी ५-०० ते दुपारी २-०० व दुपारी २-०० ते रात्रौ १०-०० या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांच्या १ ते १० संख्येला १ महिला सुरक्षा रक्षक नेमण्यात यावी. त्याच पटीत पुढे सुरक्षा रक्षक नेमण्यात यावेत. स्त्री सुरक्षा रक्षकांना स्वसंरक्षणार्थ व त्यांच्या देखरेखीखाली असलेल्या स्त्री कर्मचाऱ्यांच्या संरक्षणाकरिता ज्युडो, कराटे इत्यादींचे प्रशिक्षण देण्यात यावे.

(४) स्त्री कर्मचाऱ्यांकरिता स्वतंत्र लॉकर्सची व्यवस्था करण्यात यावी व स्त्री कर्मचाऱ्यांच्या विश्रांतीकरिता विश्रांती कक्ष निर्माण करण्यात यावा व या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांना किमान पाच स्त्री कर्मचाऱ्यांच्या गटागटाने काम करण्यास देण्यात यावे.

(५) प्रत्येक स्त्री कर्मचाऱ्यास प्रत्येक सप्ताहामध्ये आलटून पालटून साप्ताहिक सुट्टी कोणत्याही प्रकारची वेतनातून कपात न करता देण्यात यावी. कर्मचाऱ्यांना आठवड्यात गटागटाने सुट्टी देण्यात यावी.

(६) साप्ताहिक सुट्टीचे वेळापत्रक प्रत्येक महिन्याच्या शेवटच्या दिवशी कर्मचाऱ्यांच्या माहितीसाठी सूचना फलकावर प्रदर्शित करावे. कोणत्याही कर्मचाऱ्यास साप्ताहिक रजेपासून वंचित केले जाणार नाही. त्यांना आठवड्याची भरपगारी रजा दिली जाईल.

(७) कर्मचाऱ्याच्या जादा कामाचा भत्ता, कामाचा विस्तार कालावधी व इतर अनुषंगिक बाबींबाबत कारखाने अधिनियम व महाराष्ट्र कारखाने नियम यामधील तरतुदींचे पालन करणे आवश्यक आहे.

(८) महिला कामगारांचे ६ वर्षांपेक्षा लहान मुलांसाठी पाळणाघराची सुविधा उपलब्ध केली पाहिजे.

(९) पाळणाघराच्या व्यवस्थेचा फायदा घेण्याकरिता जे कामगार आपली लहान मुले कारखान्यात आणू इच्छितात त्या मुलांनाही उपरोक्त अट क्र. ८ मधील सुविधा कारखाना व्यवस्थापनाने उपलब्ध करून दिली पाहिजे.

(१०) सदर सूट ही या प्रस्तावासोबत संमतीपत्र देणाऱ्या महिलांकरिताच लागू राहील. या सूटबाबत संमती देणाऱ्या महिलांची किंवा युनियनची तक्रार असल्यास त्यांच्याबाबतीत सदर सवलत लागू राहणार नाही.

(११) व्यवस्थापनाने सदर सूट मिळालेल्या अधिसूचनेची प्रत ठळकपणे, सर्व महिला कर्मचाऱ्यांच्या माहितीकरिता सूचना फलकावर प्रदर्शित केली पाहिजे.

(१२) महिला कर्मचाऱ्यांच्या वेळेच्या संबंधात मा. उच्च न्यायालय, मद्रास यांनी रिट पिटीशन क्र. ४३६०/९९ या केसमध्ये दिलेल्या मार्गदर्शक तत्त्वांचे कारखाना व्यवस्थापनाने पालन केले पाहिजे.

(१३) वरील आस्थापनेस दिलेली सूट ही सदर अधिसूचना **राजपत्रात** प्रसिद्ध झाल्याच्या दिनांकापासून पुढे एक वर्षाच्या कालावधीकरिता अंमलात येईल.

(१४) वरील क्रमांक १ ते १२ च्या अटींचे व्यवस्थापनाकडून उल्लंघन झाल्यास वरीलप्रमाणे दिलेली सूट/सवलत आपोआप रद्द समजली जाईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रविकुमार पाटणकर,
कक्ष अधिकारी.

८९

बुधवार, जुलै ३१, २०१३/श्रावण ९, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरू चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक ३१ जुलै २०१३

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. ०२/२०१३/प्र.क्र. ५८/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा " उक्त अधिनियम " असा उल्लेख करण्यात आलेला आहे) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकाराचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक " ६१७" नंतर खालील नोंदीचा समावेश करण्यात येईल :—

" ६१८	मे. गाडा ऑप्टीकल्स प्रा. लि., दुकान नं. ४ व ५, आकाशदिप बिल्डिंग, टोपीवाला वाडी, व्ही. पी. रोड, मुंबई ४०० ००४.	उक्त अधिनियमाच्या कलम १८ मधून खालील शर्तींच्या अधीन राहून :– (१) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकाराची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे. (२) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही. (३) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर १ तासाची विश्रांती देण्यात यावी. (४) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहीत केलेल्या दराने अधिक वेतन देण्यात यावे. (५) आस्थापना कोणत्याही दिवशी रात्री ८-३० वाजल्या नंतर उघडी राहणार नाही.

(६) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून एक वर्षाच्या कालावधीकरिता लागू राहील.

(७) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.

(८) वरील अटी व शर्ती व्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.

(८) वरीलपैकी कोणत्याही अटींचा व शर्तींचा भंग झाल्यास सूट आपोआप रद्द होईल."

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अ.म.बाविस्कर,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE.02/2013/CR. 58/ Lab-10, dated 31th July 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 31st July 2013.

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE.02/2013/CR. 58/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Bom. LXXIX of 1948) hereinafter referred to as the said Act the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry " 617 " the following Entry shall be added namely :—

" 618	M/s. Gada Opticals Pvt. Ltd., Shop No. 4 and 5, Aakshdeep Bldg., Topiwala Wadi, V.P.Road, Mumbai 400 004.	Section 18 subject to the following conditions :— (1) Every Employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance. (2) No Employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day. (3) Every employee shall be given a rest period of one hour after 5 hours of continuous work. (4) The Employee shall be entitled to overtime wages in accordance with Section 63 of the said Act. (5) The establishment shall not remain open on any day later than 8-30 p.m. (6) This exemption shall remain in operation for the period of one year from the date of Notification Published in *Government Gazettee*. (7) This exemption is related only to Bombay Shops and Establishment Act, 1948. (8) Inspite of these terms and conditions, all the provisions of this Act shall applicable to the establishment duly. (9) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

By order and in the name of the Governor of Maharashtra,

A.M.BAWISKAR,
Section Officer.

९०

बुधवार, ऑगस्ट ७, २०१३/श्रावण १६, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक ७ ऑगस्ट २०१३.

अधिसूचना

किमान वेतन अधिनियम, १९४८.

क्रमांक किवेअ. २०१३/५२/प्र.क्र. २७/कामगार-७.—ज्याअर्थी, महाराष्ट्र राज्यातील " स्थानिक स्वराज्य संस्थांमधील (ग्रामपंचायत) कामधंदा " या रोजगारात असलेल्या कामगारांना (यात यापुढे ज्याचा " उक्त अनुसूचित रोजगार " असा उल्लेख करण्यात आलेला आहे) देय असलेले किमान वेतन दर शासन अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक एमडब्ल्यूए. १०९८/प्र.क्र. ३९७/कामगार-७, दिनांक २५ एप्रिल २००७ अन्वये पुनर्निर्धारित केले आहेत ;

आणि ज्याअर्थी, महाराष्ट्र शासनाने पुनर्विलोकन करून उक्त अनुसूचित रोजगारातील कामगारांना देय असलेले किमान वेतन दर पुनर्निर्धारित करण्याचे ठरविले आहे.

त्याअर्थी, आता किमान वेतन अधिनियम, १९४८ (१९४८ चा ११) हा महाराष्ट्र राज्यास लागू करताना त्याच्या कलम ३ पोट-कलम (१) खंड (ब) आणि कलम ५ चे पोट-कलम (२) याद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून महाराष्ट्र शासन, शासकीय अधिसूचना, उद्योग, ऊर्जा व कामगार विभाग, क्रमांक किवेअ. ५२०१०/प्र.क्र. १३२२/कामगार-७, दिनांक २९ फेब्रुवारी २०१२ मध्ये प्रसिद्ध झालेल्या प्रस्तावाच्या संबंधात मिळालेली सर्व अभिवेदने विचारात घेतल्यानंतर आणि सल्लागार मंडळाचा सल्ला विचारात घेतल्यानंतर महाराष्ट्र शासन याद्वारे दिनांक ७ ऑगस्ट २०१३ पासून उक्त अनुसूचित रोजगारात नोकरीत असलेल्या खालील अनुसूचीच्या स्तंभ (२) मध्ये नमूद केलेल्या कामगारांच्या वर्गाला त्या अनुसूचीच्या स्तंभ (३) मध्ये नमूद केल्याप्रमाणे वेतनाचे किमान वेतन दर पुनर्निर्धारित करीत आहे :—

अनुसूची

अ.क्र.	कर्मचाऱ्यांची वर्गवारी	मूळ किमान वेतन दर (दरमहा रुपये)		
		परिमंडळ-१	परिमंडळ-२	परिमंडळ-३
(१)	(२)		(३)	
१	कुशल	७,१००	६,९००	६,३००
२	अर्धकुशल	६,४००	६,२००	५,६००
३	अकुशल	५,९००	५,७००	५,१००

स्पष्टीकरण.—या अधिसूचनेच्या प्रयोजनार्थ,—

(ए) **परिमंडळ एक.**—१०,००० पेक्षा अधिक लोकसंख्या असलेल्या ग्रामपंचायतींचे क्षेत्र ;

(बी) **परिमंडळ दोन.**—५,००० ते १०,००० लोकसंख्या असलेल्या ग्रामपंचायतींचे क्षेत्र ;

(सी) **परिमंडळ तीन.**—५,००० पेक्षा कमी लोकसंख्या असलेल्या ग्रामपंचायतींचे क्षेत्र ;

(डी) रोजंदारीवर काम करणाऱ्या कामगारास देय असलेले मजुरीचे किमान दर तो कामगार ज्या वर्गाचा असेल त्या वर्गासाठी निश्चित करण्यात आलेल्या मासिक मजुरीच्या दरांना २६ ने भागून येणारा भागाकार नजीकच्या पैशापर्यंत पूर्णांकांत करून काढण्यात येईल ;

(इ) अर्धवेळ काम करणाऱ्या कामगारांना देय असलेल्या प्रतितास वेतनाचा दर तो कामगार ज्या वर्गवारीचा असेल त्या वर्गवारीच्या रोजंदारी किमान वेतनास ८ तासाने भागून व त्यात १५% वाढ करून तसेच येणारी रक्कम नजिकच्या पैशापर्यंत पूर्णांकात परिवर्तित करण्यात येऊन काढण्यात येईल ;

(फ) किमान वेतन दरामध्ये साप्ताहिक सुट्टीच्या वेतनाचा समावेश असेल ;

(जी) किमान वेतन दरामध्ये मूळ दर, विशेष भत्ता आणि सवलती असल्यास त्याचे रोख मूल्य यासाठी अनुज्ञेय असलेल्या सर्व दरांचा समावेश असेल ;

(एच) एखादा कुशल कामगार म्हणजे जो स्वतःच्या निर्णय शक्तीनुसार आपले काम कार्यक्षमतेने व जबाबदारीने पार पाडू शकतो असा कामगार ;

(आय) अर्धकुशल कामगार म्हणजे सर्वसाधारणपणे नित्याच्या स्वरूपाचे काम करतो की, ज्यामध्ये निर्णय घेण्याची फारशी गरज नसते. परंतु तुलनेने त्याला दिलेले छोटेसे काम की, ज्यामध्ये महत्त्वाचे निर्णय इतरांकडून घेतले जातात असे काम योग्य रीतीने पार पाडण्याची आवश्यकता असते. मर्यादित व्याप्तीचे नित्याचे काम पार पाडणे हेच त्याचे कर्तव्य असते ;

(जे) अकुशल कामगार म्हणजे ज्यास लहानसा किंवा स्वतंत्र निर्णय घेणे आणि पूर्वानुभव असणे आवश्यक नाही. परंतु तरीही व्यावसायिक परिस्थितीची माहिती असणे आवश्यक आहे असे साध्या कर्तव्य पालनाचा अंतर्भाव असलेले काम करणारा कामगार म्हणून त्याच्या कामासाठी शारीरिक परिश्रमाशिवाय निरनिराळ्या वस्तूंची किंवा मालाची त्याला चांगली माहिती असणे आवश्यक असेल.

परिशिष्ट

महाराष्ट्र राज्यातील १० केंद्रांचा सरासरी ग्राहक मूल्य निर्देशांक (नवीन मालिका २००१=१००) हा उक्त अनुसूचित रोजगारात नोकरी करत असलेल्या कामगारांना लागू असलेला राहणीमान निर्देशांक असेल, महाराष्ट्र शासनाने नियुक्त केलेला सक्षम प्राधिकारी १ जानेवारी व १ जुलै रोजी सुरू होणाऱ्या प्रत्येक सहामाहीच्या समाप्तीनंतर त्या सहा महिन्यांसाठी उक्त कर्मचाऱ्यांना लागू असलेल्या राहणीमान निर्देशांकाची सरासरी काढील आणि १९६ निर्देशांकावर अशा प्रत्येक अंकाच्या वाढीसाठी ज्या सहामाहीच्या संबंधात अशी सरासरी काढण्यात आलेली असेल, त्या सहा महिन्यांलगत पुढील सहामाहीसाठी उक्त कर्मचाऱ्यांना देय असलेला विशेष भत्ता (यात यानंतर ज्याचा राहणीमान भत्ता असा निर्देश करण्यात आला आहे) सर्व परिमंडळाच्या संबंधित दरमहा रुपये २५.०० दराने असेल.

२. सक्षम प्राधिकारी, **शासकीय राजपत्रातील** अधिसूचनेद्वारे, उपरोक्त प्रमाणे हिशेब करून काढलेला राहणीमान भत्ता, जानेवारी ते जून या कालावधीतील प्रत्येक महिन्यासाठी देय असेल तेव्हा जानेवारी महिन्याच्या शेवटच्या आठवड्यामध्ये आणि जुलै ते डिसेंबर या कालावधीमधील प्रत्येक महिन्यासाठी देय असेल तेव्हा जुलै महिन्याच्या शेवटच्या आठवड्यामध्ये **शासकीय राजपत्रातील** अधिसूचनेद्वारे जाहीर करील :

परंतु, सक्षम प्राधिकारी किमान वेतन निश्चित केल्याच्या दिनांकापासून देय असलेला राहणीमान भत्ता जून किंवा डिसेंबर अखेरपर्यंतच्या किंवा यथास्थिती, किमान वेतन दर निश्चित करण्यात आल्याच्या दिनांकानंतर लगेचच जाहीर करील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

ज. आ. खवणेकर,
शासनाचे अवर सचिव.

In pursuance of clause (*3*) of article 348 of the Constitution of India, the following translation in English of the Government Notification, No. MWA. 2013/52/CR-27/LAB-7, dated the 7th August 2013 published in the *Maharashtra Government Gazette,* Part I-L, Extra-ordinary is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 7th August 2013.

NOTIFICATION

MINIMUM WAGES ACT, 1948.

No. MWA. 2013/52/CR-27/LAB-7.—Whereas, by the Government Notification, Industries, Energy and Labour Department, No. MWA. 1098/CR-397/Lab-7, dated the 25th April 2007, the Government of Maharashtra has revised the minimum rates of wages payable to the employees employed by the village panchayats being class of Employment engaged in the scheduled employment, *viz*. " Employment under any local authority " (hereinafter referred to as "the said scheduled employment"), in the State of Maharashtra ;

And whereas, the Government of Maharashtra, having reviewed the minimum rates of wages payable to the employees employed in the said scheduled employment, considers it necessary to revise them further.

Now, therefore, in exercise of the powers conferred by clause *(b)* of sub-section *(1)* of section 3 read with sub-section *(2)* of section 5 of the Minimum Wages Act, 1948 (XI of 1948), in its application to the State of Maharashtra, the Government of Maharashtra, after considering all the representations received by it in respect of the proposal published in the Government Notification, Industries, Energy and Labour department No. MWA. 52010/CR-1322/Lab-7, dated the 29th February 2012, and after consulting the Advisory Board, hereby revises, with effect from 7th day of August 2013, the minimum rates of wages payable to the employees employed in the said scheduled employment and refixes them, as set out in column (3) of the Schedule appended hereto, as the minimum rates of wages payable to the class of employees mentioned against them in column (2) of the said Schedule :—

Schedule

Sr.No.	Class of Employees	Minimum rates of wages (basic rates) (per month) (in rupees)		
		Zone-I	Zone-II	Zone-III
(1)	(2)		(3)	
1	Skilled	7,100	6,900	6,300
2	Semi-skilled	6,400	6,200	5,600
3	Unskilled	5,900	5,700	5,100

Explanation.—For the purposes of this notification,—

(a) Zone-I.—It shall comprise of all the village panchayats having population above 10,000 ;

(b) Zone-II.—It shall comprise of all the village panchayats having population between 5,000 to 10,000 ;

(c) Zone-III.—It shall comprise of all the village panchayats having population upto 5,000 ;

(d) the minimum rates of daily wages payable to an employee employed on daily wages shall be computed by dividing the minimum rates of monthly wages fixed for the class of employees to which he belongs by twenty six, the quotient being stepped upto the nearest *paisa ;*

(*e*) the minimum rates of hourly wages payable to part-time employee shall be computed by dividing the daily rates of minimum wages applicable to the concerned class of employees by eight (hours) with 15% rise in it and quotient being stepped upto the nearest *paisa ;*

(*f*) the minimum rates of wages shall be inclusive of payment of remuneration in respect of weekly day of rest ;

(g) the minimum rates of wages shall consist of basic rates, the cost of living allowance, the cash value of concessions, if any ;

(h) a skilled employee is one, who is capable of working efficiently, of exercising considerable independent judgment and discharging his duties responsibly ;

(*i*) a semi-skilled employee is one, who does work generally of a well defined routine nature, wherein the major requirement is not so much of the judgement, skills and dexterity, but of proper discharge of duties assigned to him for a relatively narrow job and important decisions are made by others. His work is thus limited to the performance of routine operation of limited scope ;

(*j*) an unskilled employee is one who does operations that involve the performance of simple duties which require exercise of little or no independent judgment or previous experience, although a familiarity with the occupational environment is necessary. His work may thus require, in addition to physical exertion, familiarity with a variety of articles or goods.

APPENDIX

The average Consumer Price Index Number in respect of ten centres in the State of Maharashtra for working class (New Series 2001=100) shall be the Cost of Living Index Number applicable to the employees employed in the said scheduled employment. The Competent Authority appointed by the Government shall, after the expiry of every six months commencing on the first day of January and the first day of July, calculate the average of the Cost of Living Index Number applicable to the said employee for these six months and ascertain the rise of such average over 196 points. For such rise of every point, special allowance (hereinafter referred to as "the Cost of Living Allowance"), payable to the employee in the said scheduled employment for each of the six months immediately following six months in respect of which such average has been calculated at the rate of Rs. 25.00 per month in respect of all zones.

2. The Cost of Living Allowance computed as aforesaid shall be declared by the Competent Authority by notification in the *Official Gazette,* in the last week of July when such allowance is payable for each of the months from July to December and in the last week of January, when such allowance is payable for each of the months from January to June :

Provided that, the Competent Authority shall declare the Cost of Living Allowance payable in respect of the period from the date of fixation of the rate of minimum wages to the end of December or June, as the case may be, immediately after the said date with effect from which the minimum rates of wages are fixed.

By order and in the name of the Governor of Maharashtra,

J. A. KHAVNEKAR,
Under Secretary to Government.

९१

गुरुवार, ऑगस्ट ८, २०१३/श्रावण १७, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

हुतात्मा राजगुरु चौक, मादाम कामा रोड, मंत्रालय, मुंबई ४०० ०३२, दिनांक ५ ऑगस्ट २०१३.

अधिसूचना

कारखाने अधिनियम, १९४८.

क्रमांक एफएसी.२०१२/प्र.क्र. २६४/काम-४.—कारखाने अधिनियम, १९४८ च्या कलम ६६(१)(ब) मधील परंतुकान्वये प्रदान करण्यात आलेल्या शक्तींचा वापर करून महाराष्ट्र शासन या अधिसूचनेद्वारे मे. पॉलिबॉण्ड इंडिया प्रा. लि., गट नं. १०८७/१०८८, सणसवाडी, ता. शिरूर, जिल्हा पुणे या कारखान्यास कारखाने अधिनियम, १९४८ मधील महिला कर्मचाऱ्यांच्या कामाच्या वेळेसंबंधी असणाऱ्या तरतुदींमधून सूट देत असून याबाबत संमती असणाऱ्या महिला कर्मचाऱ्यांना सकाळी ५-०० ते सायंकाळी १०-०० वाजेपर्यंतच्या कालावधीकरिता काम करण्यास सदर अधिसूचना निर्गमित झाल्याच्या दिनांकापासून पुढील १ वर्षाच्या कालावधीकरिता परवानगी देत आहे. सदर सूट ही खालील अटींच्या अधीन राहून देण्यात येत आहे :—

अटी

(१) कोणत्याही महिला कामगारास रात्री १०-०० वाजल्यापासून सकाळी ५-०० वाजेपर्यंत कामावर ठेवू नये.

(२) व्यवस्थापनाने महिला कामगारांना, कामगारांच्या निवासस्थानापासून, कारखान्यापर्यंत व पुन्हा परत त्यांच्या निवासस्थानापर्यंत त्यांना ने-आण करण्यासाठी बस किंवा मोटारगाड्यातून विनामूल्य सोय केली पाहिजे. तसेच त्यांना कामावर येताना, जाताना व कामाच्या ठिकाणी सुरक्षिततेची पुरेशी व्यवस्था केली पाहिजे.

(३) स्त्री कर्मचाऱ्याच्या कामाच्या ठिकाणी व्यवस्थापनाने निवासस्थान ते आस्थापना व आस्थापना ते निवासस्थानाच्या वाहतुकीमध्ये स्त्री सुरक्षा रक्षकाची नियुक्ती करण्यात यावी. सकाळी ५-०० ते दुपारी २-०० व दुपारी २-०० ते रात्री १०-०० या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांच्या १ ते १० संख्येला एक महिला सुरक्षा रक्षक नेमण्यात यावी. त्याच पटीत पुढे सुरक्षा रक्षक नेमण्यात यावेत. स्त्री सुरक्षा रक्षकांना स्वसंरक्षणार्थ व त्यांच्या देखरेखीखाली असलेल्या स्त्री कर्मचाऱ्यांच्या संरक्षणाकरिता ज्युडो, कराटे इत्यादींचे प्रशिक्षण देण्यात यावे.

(४) स्त्री कर्मचाऱ्यांकरिता स्वतंत्र लॉकर्सची व्यवस्था करण्यात यावी व स्त्री कर्मचाऱ्यांच्या विश्रांतीकरिता विश्रांती कक्ष निर्माण करण्यात यावा. या पाळीत काम करणाऱ्या स्त्री कर्मचाऱ्यांना किमान पाच स्त्री कर्मचाऱ्यांच्या गटागटाने काम करण्यास देण्यात यावे.

(५) प्रत्येक स्त्री कर्मचाऱ्यास प्रत्येक सप्ताहामध्ये आलटून पालटून साप्ताहिक सुट्टी कोणत्याही प्रकारची वेतनातून कपात न करता देण्यात यावी. कर्मचाऱ्यांना आठवड्यात गटागटाने सुट्टी देण्यात यावी.

(६) साप्ताहिक सुट्टीचे वेळापत्रक प्रत्येक महिन्याच्या शेवटच्या दिवशी कर्मचाऱ्यांच्या माहितीसाठी सूचना फलकावर प्रदर्शित करावे. कोणत्याही कर्मचाऱ्यास साप्ताहिक रजेपासून वंचित केले जाणार नाही. त्यांना आठवड्याची भरपगारी रजा दिली जाईल.

(७) कर्मचाऱ्याच्या जादा कामाचा भत्ता, कामाचा विस्तार कालावधी व इतर अनुषंगिक बाबींबाबत कारखाने अधिनियम व महाराष्ट्र कारखाने नियम यांमधील तरतुदींचे पालन करणे आवश्यक आहे.

(८) महिला कामगारांचे ६ वर्षांपेक्षा लहान मुलांसाठी पाळणाघराची सुविधा उपलब्ध केली पाहिजे.

(९) पाळणाघराच्या व्यवस्थेचा फायदा घेण्याकरिता जे कामगार आपली लहान मुले कारखान्यात आणू इच्छितात त्या मुलांनाही उपरोक्त अट क्र. (८) मधील सुविधा कारखाना व्यवस्थापनाने उपलब्ध करून दिली पाहिजे.

(१०) सदर सूट ही या प्रस्तावासोबत संमतीपत्र देणाऱ्या २८ महिलांकरिताच लागू राहील. या सूटबाबत संमती देणाऱ्या महिलांची किंवा युनियनची तक्रार असल्यास त्यांच्याबाबतीत सदर सवलत लागू राहणार नाही.

(११) व्यवस्थापनाने सदर सूट मिळालेल्या अधिसूचनेची प्रत ठळकपणे सर्व महिला कर्मचाऱ्यांच्या माहितीकरिता सूचना फलकावर प्रदर्शित केली पाहिजे.

(१२) महिला कर्मचाऱ्यांच्या वेळेच्या संबंधात मा. उच्च न्यायालय, मद्रास यांनी रिट पिटीशन क्र. ४३६०/९९ या केसमध्ये दिलेल्या मार्गदर्शक तत्त्वांचे कारखाना व्यवस्थापनाने पालन केले पाहिजे.

(१३) वरील आस्थापनेस दिलेली सूट ही सदर अधिसूचना **राजपत्रात** प्रसिद्ध झाल्याच्या दिनांकापासून पुढे एक वर्षाच्या कालावधीकरिता अंमलात येईल.

(१४) वरील क्रमांक १ ते १२ च्या अटींचे व्यवस्थापनांकडून उल्लंघन झाल्यास वरीलप्रमाणे दिलेली सूट/सवलत आपोआप रद्द समजली जाईल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रविकुमार पाटणकर,
कक्ष अधिकारी.

९२

गुरुवार, ऑगस्ट ८, २०१३/श्रावण १७, शके १९३५

कामगार आयुक्त, मुंबई

कामगार आयुक्त यांचे कार्यालय, " कामगार भवन ", ई-ब्लॉक, सी-२०,
वांद्रे-कुर्ला संकुल, वांद्रे (पूर्व), मुंबई ४०० ०५१, दिनांक २ ऑगस्ट २०१३.

अधिसूचना

किमान वेतन अधिनियम, १९४८.

क्रमांक ग्रा.वि./किवेअ/वि.भ./२०१३-१/कार्या-१०.— किमान वेतन अधिनियम, १९४८ अंतर्गत खालील अनुसूचित उद्योगातील कामगारांकरिता विशेष भत्त्याचे दर दिनांक १ जुलै २०१३ ते ३० डिसेंबर २०१३ या कालावधीकरिता जाहीर करीत आहे :—

अनु क्रमांक	अनुसूचित उद्योगाचे नाव	परिमंडळनिहाय विशेष भत्त्याचे दर				कालावधी	शेरा
		परिमंडळ १	परिमंडळ २	परिमंडळ ३	परिमंडळ ४		
(१)	(२)	(३)				(४)	(५)
		रुपये	रुपये	रुपये	रुपये		
१	मुंबई उच्च न्यायालयाच्या न्यायवादीच्या आस्थापनातील अधिवक्ते किंवा न्यायवादी यांचा अधिसंघ संस्था व विधी व्यवसायाच्या संबंधित आस्थापनेतील कामधंदा.	१,४५६.००	१,४५६.००	१,४५६.००	. .	प्रति महिना	#
२	मोटर दुरुस्ती कार्यशाळा उद्योग	२,३९६.८०	२,३९६.८०	२,३९६.८०	. .	प्रति महिना	. .
३	बेकरी उद्योग	२,५३५.७५	२,५३५.७५	२,५३५.७५	. .	प्रति महिना	. .

(१)	(२)	(३)				(४)	(५)
४	कापूस दाबणे व पिंजणे उद्योग	२,२४७.००	२,२४७.००	२,२४७.००	. .	प्रति महिना	. .
५	कापड रंगविणे, छपाई उद्योग	२,५३५.७५	२,५३५.७५	. .	. .	प्रति महिना	. .
६	काजू प्रक्रिया उद्योग	१,९५३.००	संपूर्ण महाराष्ट्र राज्याकरिता		. .	प्रति महिना	. .
७	कागदी, गवती पुठ्ठ्यापासून खोकी तयार करणारा उद्योग.	२,०१९.६०	२,०१९.६०	२,०१९.६०	. .	प्रति महिना	. .
८	रासायनिक खते बनविणारा उद्योग.	२,२४४.००	२,२४४.००	२,२४४.००	. .	प्रति महिना	
९	कॅन्टीन आणि क्लब उद्योग	१,२३२.००	१,२३२.००	१,२३२.००	. .	प्रति महिना	#
१०	सिमेंट व सिमेंटवर आधारीत उद्योग.	३,१३९.२०	३,१३९.२०	३,१३९.२०	. .	प्रति महिना	*
११	रस्ते तयार करणे, देखरेख करणे, बांधकाम उद्योग.	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
१२	चित्रपट प्रदर्शनाचा उद्योग	२,४११.००	२,४११.००	२,४११.००	२,४११.००	प्रति महिना	. .
१३	सायकल यांत्रिकी कार्यशाळेतील कामधंदा.	२,१४२.००	२,१४२.००	. .	. .	प्रति महिना	. .
१४	दवाखाना उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
१५	औषधी द्रव्ये व औषध बनविणारा उद्योग.	१,२३२.००	१,२३२.००	१,२३२.००	. .	प्रति महिना	#
१६	दुग्धालय (डेअरी) उद्योग	२,३५४.००	२,३५४.००	२,३५४.००	. .	प्रति महिना	. .
१७	लिखाणाच्या वह्या बनविणारा उद्योग.	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	
१८	खाण्याचा तंबाखू उद्योग	२,१७३.५०	संपूर्ण महाराष्ट्र राज्याकरिता		. .	प्रति महिना	. .
१९	अभियांत्रिकी उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	
२०	कारखाने अधिनियम, १९४८ च्या कलम २ पोट-कलम (एम) या व्याखेतील कारखाने.	२,१४२.००	२,१४२.००	२,१४२.००	. .	प्रति महिना	. .
२१	शाईपेन व बॉलपेन बनविणारा उद्योग.	२,७०२.५०	२,७०२.५०	२,७०२.५०	. .	प्रति महिना	. .
२२	चित्रपट निर्मिती उद्योग	२,४४८.००	२,४४८.००	. .	. .	प्रति महिना	. .
२३	काच बल्ब बनविणारा उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
२४	काच उद्योग	१,२३२.००	१,२३२.००	१,२३२.००	. .	प्रति महिना	#
२५	निवासी हॉटेल व उपाहारगृह उद्योग	१,२३२.००	१,२३२.००	१,२३२.००	. .	प्रति महिना	#
२६	केश कर्तनालय उद्योग	१,२३२.००	१,२३२.००	१,२३२.००	. .	प्रति महिना	#
२७	रुग्णालय उद्योग	१,९७७.३०	१,९७७.३०	१,९७७.३०	. .	प्रति महिना	. .
२८	बर्फ व शीतपेय बनविणारा उद्योग	१,६२५.४०	१,६२५.४०	. .	. .	प्रति महिना	. .

(१)	(२)	(३)				(४)	(५)
२९	मद्य उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
३०	धोबी काम उद्योग	१,२३२.००	१,२३२.००	१,२३२.००	. .	प्रति महिना	#
३१	चष्मा चौकटी बनविणारा उद्योग	२,२०३.२०	२,२०३.२०	२,२०३.२०	. .	प्रति महिना	. .
३२	तेल गिरणी उद्योग	२,५३५.७५	२,५३५.७५	. .	. .	प्रति महिना	. .
३३	कागद व कागदी पुठ्ठे बनविणारा उद्योग.	१,९४३.५०	१,९४३.५०	१,९४३.५०	. .	प्रति महिना	. .
३४	प्लास्टिक उद्योग	२,१४२.००	२,१४२.००	२,१४२.००	. .	प्रति महिना	. .
३५	रंग व वॉर्निश बनविणारा उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
३६	पोहे, चुरमुरे व कुरमुरे बनविणारा उद्योग.	२,५३५.७५	२,५३५.७५	. .	. .	प्रति महिना	. .
३७	यंत्रमाग उद्योग						
	(१८४ पेक्षा जास्त)	५,८९९.००	५,८९९.००	५,८९९.००	. .	प्रति महिना	. .
	(१८४ पेक्षा कमी)	४,१२९.३०	४,१२९.३०	४,१२९.३०	. .	प्रति महिना	
३८	मुद्रण उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
३९	सार्वजनिक मोटर वाहतूक उद्योग	२,५३५.७५	२,५३५.७५	. .	. .	प्रति महिना	. .
४०	तयार कपडे बनविणे उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
४१	रबर उद्योग	१,२३२.००	१,२३२.००	१,२३२.००	. .	प्रति महिना	#
४२	भात, पीठ व डाळ गिरणीतील उद्योग.	२,५३५.७५	२,५३५.७५	. .	. .	प्रति महिना	. .
४३	रबरी फुगे बनविणारा उद्योग	२,५३५.७५	२,५३५.७५	२,५३५.७५	. .	प्रति महिना	. .
४४	पोलादी सामान बनविणारा उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
४५	सिप्झ उद्योग	१,८५२.००	. .	. .	. .	प्रति महिना	. .
४६	दगड फोडणे व खडी करणे उद्योग.	२,४६७.५०	२,४६७.५०	. .	. .	प्रति महिना	. .
४७	सौंदर्य प्रसाधने व साबण बनविणारा उद्योग.	१,२३२.००	१,२३२.००	१,२३२.००	. .	प्रति महिना	# . .
४८	दुकाने व व्यापारी आस्थापना उद्योग.	१,८२५.२०	१,८२५.२०	१,८२५.२०	. .	प्रति महिना	. .
४९	सफाईगार व मेहतर कामधंदा	२,२४७.००	२,२४७.००	२,२४७.००	. .	प्रति महिना	. .
५०	लाकुड कटाई उद्योग	२,१४२.००	२,१४२.००	२,१४२.००	. .	प्रति महिना	. .
५१	कातडी कमावणे व चामड्याच्या वस्तू तयार करणे.	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
५२	धातुची भांडी बनविणारा उद्योग	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
५३	लाकडी फोटो चौकट बनविणारा उद्योग.	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .

(१)	(२)	(३)				(४)	(५)
५४	लाकडी फर्निचर बनविणारा उद्योग.	२,६२८.१०	२,६२८.१०	२,६२८.१०	. .	प्रति महिना	. .
५५	घड्याळाचे पट्टे बनविणारा उद्योग.	२,५३५.७५	२,५३५.७५	२,५३५.७५	. .	प्रति महिना	. .
५६	हातमाग उद्योग	१,८१९.००	१,८१९.००	१,८१९.००	. .	प्रति महिना	. .
५७	मातीची भांडी बनविणारा उद्योग	१,८८३.२०	१,८८३.२०	१,८८३.२०	. .	प्रति महिना	. .
५८	वन व वनशास्त्र विषयक रोजगार	१,८५९.००	१,८५९.००	. .	. .	प्रति महिना	. .
		अतिदुर्गम क्षेत्र	इतर क्षेत्र	. .	. .		
५९	चांदी उद्योग	२,२४४.००	२,२४४.००	. .	. .	प्रति महिना	. .
६०	तंबाखू (बिडी उद्योग)	८०.००	८०.००	. .	. .	प्रति दिन	. .
६१	स्थानिक स्वराज्य संस्था (ग्रामपंचायत).	१,९२३.००	१,९२३.००	१,९२३.००	. .	प्रति महिना	. .
६२	रंग व रसायने बनविणारा उद्योग	२,५६७.९३	२,५६७.९३	२,५६७.९३	. .	प्रति महिना	. .
६३	विटा व कौले बनविण्याच्या कारखान्यातील कामधंदा.	१,६७४.००	१,६७४.००	. .	. .	प्रति महिना	. .
६४	म्हशी किंवा गाई किंवा दोन्ही जेथे दूध काढण्यासाठी, स्वच्छ करण्यासाठी, चारा घालण्यासाठी आणि इतर सर्व अनुषंगिक प्रक्रियांसाठी ठेवण्यात येतात अशा कोणत्याही जागेतील कामधंदा (तबेला उद्योग).	२,८२०.४०	२,८२०.४०	२,८२०.४०	. .	प्रति महिना	. .
६५	मिठागरामधील कामधंदा	२,१४२.००	. .	. .	. .	प्रति महिना	. .

विशेष भत्याचे दर परिमंडळनिहाय प्रत्येक अनुसूचित उद्योगाकरिता दर्शविण्यात आले आहेत.

* अ. क्र. १० समोरील अनुसूचित उद्योगांचे किमान वेतन दिनांक २५ एप्रिल २००७ रोजीच्या अधिसूचनेद्वारे पुनर्निर्धारित केलेले होते. तथापि, सदर अधिसूचनेस मुंबई उच्च न्यायालयाच्या नागपूर खंडपिठाने याचिका क्र. ५१२५/२००७ मध्ये स्थगिती दिलेली असल्याने, विशेष भत्त्याचे दर पूर्वीच्या अधिसूचनेनुसार जाहीर केलेले आहेत.

अ. क्र. १,९,१५,२४,२५,२६,३०,४१ व ४७ या अनुसूचित उद्योगांचे किमान वेतन पूनर्निर्धारित केलेले आहे.

अ. क्र. १,९,१५,२४,२५,२६,३०,४१ व ४७ समोरील अनुसूचित उद्योगाचे विशेष भत्याचे दर पुनर्निर्धारित दिनांकानुसार खाली दर्शविले आहेत:—

अ.क्र.	अनुसूचित उद्योगाचे नाव व पूनर्निर्धारणाचा दिनांक	विशेष मत्त्याचा कालावधी	दरमहा विशेष भत्ता दर		
			परिमंडळ १	परिमंडळ २	परिमंडळ ३
(१)	(२)	(३)		(४)	
			(रुपये)	(रुपये)	(रुपये)
१	मुंबई उच्च न्यायालयाच्या न्यायवादीच्या आस्थापनातील अधिवक्ते किंवा न्यायवादी यांच्या अधिसंघ संस्था व विधी व्यवसायाच्या संबंधित आस्थापनेतील कामधंदा दि. ५ जुलै २०१३	१ जुलै २०१३ ते ४ जुलै २०१३	२,६२८.१०	२,६२८.१०	२,६२८.१०

(१)	(२)	(३)	(४)		
२	कॅन्टीन क्लब दि. १९ जून २०१३	१९ जून २०१३ ते ३० जून २०१३	९५२.००	९५२.००	९५२.००
३	औषधी द्रव्ये व औषध बनविणारा उद्योग दि. १९ जून २०१३	१९ जून २०१३ ते ३० जून २०१३	९५२.००	९५२.००	९५२.००
४	काच उद्योग दि. २५ जून २०१३	२५ जून २०१३ ते ३० जून २०१३	९५२.००	९५२.००	९५२.००
५	निवासी हॉटेल व उपहारगृह उद्योग दि. ५ जुलै २०१३	१ जुलै २०१३ ते ४ जुलै २०१३	२,६२८.१०	२,६२८.१०	२,६२८.१०
६	केश कर्तनालये उद्योग दि. १९ जून २०१३	१९ जून २०१३ ते ३० जून २०१३	९५२.००	९५२.००	९५२.००
७	धोबी काम उद्योग दि. २५ जून २०१३	२५ जून २०१३ ते ३० जून २०१३	९५२.००	९५२.००	९५२.००
८	रबर उद्योग दि. २५ जून २०१३	२५ जून २०१३ ते ३० जून २०१३	९५२.००	९५२.००	९५२.००
९	सौंदर्य प्रसाधने व साबण बनविणारा उद्योग दि. १९ जून २०१३	१९ जून २०१३ ते ३० जून २०१३	९५२.००	९५२.००	९५२.००

टीप.—विशेष भत्ता दरपत्रक *www.mahashramm.gov.in* या संकेतस्थळावरही उपलब्ध आहे.

अ. खु. पेंडसे,
कामगार उप आयुक्त (ग्रा. वि.)
व सक्षम प्राधिकारी,
किमान वेतन अधिनियम, १९४८, मुंबई.

९३

बुधवार, ऑगस्ट १४, २०१३/श्रावण २३, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक १४ ऑगस्ट २०१३

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. ०८/२०१२/प्र.क्र. २०९/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा " उक्त अधिनियम " असा उल्लेख करण्यात आलेला आहे.) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक " ६१८ " नंतर खालील नोंदीचा समावेश करण्यात येईल :—

" ६१९ (१) **मुख्य शाखा.—**मे. विजय सेल्स, व्ही मॉल, तिसरा मजला, ठाकूर कॉम्प्लेक्सजवळ, कांदिवली (पूर्व), मुंबई ४०० १०१ व

खालील दुकाने.—

(२) ३८४, वीर सावरकर मार्ग, सिद्धीविनायक मंदिरासमोर, प्रभादेवी, दादर (प.), मुंबई ४०० ०२५.

(३) १०८, लेडी जमशेदजी रोड, व्हिक्टोरिया चर्चजवळ, माहिम, मुंबई ४०० ०१६.

(४) प्राईम सेंटर, १८, एस. व्ही. रोड, सांताक्रुझ (प.), मुंबई ४०० ०५४.

(५) १, अभिषेक, प्लॉट नं. ६५, एस. व्ही. रोड, अंधेरी (प.), मुंबई ४०० ०५८.

उक्त अधिनियमाच्या कलम ११ व कलम १८(१) मधून खालील शर्तींच्या अधीन राहून :—

(१) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकारची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचनाफलकावर आगाऊ लावण्यात यावे.

(२) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती ११ तासांपेक्षा जास्त असणार नाही.

(३) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.

(४) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.

(५) महिला कर्मचाऱ्यांसाठी स्वतंत्र लॉकर सुरक्षा व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.

(६) आस्थापना कोणत्याही दिवशी रात्री १०-३० वाजले नंतर उघडी राहणार नाही.

(७) महिला कर्मचाऱ्यांना रात्री ९-३० वाजले नंतर कार्यरत ठेवता येणार नाही.

(६) इनफिनिटी मॉल, पहिला मजला, लोखंडवाला, न्यू लिंक रोड, अंधेरी (प.), मुंबई ४०० ०५३.

(७) दि हब, पश्चिम द्रुतगती मार्ग, गोरेगाव (प.), मुंबई ४०० ०६३.

(८) फिल्मिस्तान स्टुडिओ समोर, एस. व्ही. रोड, गोरेगाव (प.), मुंबई ४०० ०६२.

(९) इनॉर्बिट मॉल, दुसरा मजला, होम स्टॉपच्या आत, न्यू लिंक रोड, मालाड (प.), मुंबई ४०० ०६४.

(१०) प्लॉट ५७/२, एस. व्ही. रोड, फ्लायओव्हरजवळ, बोरीवली (प.), मुंबई ४०० ०९२.

(११) १९, मामा परमानंद रोड, ऑपेरा हाऊस, मुंबई ४०० ००४.

(१२) इंद्रपुरी सोसायटी, सायन सर्कल, सायन, मुंबई ४०० ०२२.

(१३) बेझोला कॉम्प्लेक्स, सायन-तुर्भे रोड, चेंबूर, मुंबई ४०० ०७१.

(१४) श्रेयस सिनेमासमोर, एल. बी. एस. मार्ग, घाटकोपर (प.), मुंबई ४०० ०८६.

(१५) टीप टॉप प्लाझा, एल. बी. एस. मार्ग, ठाणे (पश्चिम).

(१६) वंडरमॉलसमोर, घोडबंदर रोड, ठाणे (पश्चिम).

(१७) सावता माळी व्हेजिटेबल मार्केट, संतोषी माता मंदिर रोड, कल्याण (पश्चिम).

(१८) सिल्वर पार्क, मिरा-भाईंदर रोड, मिरा रोड (पूर्व), जिल्हा ठाणे.

(१९) तळमजला, मनी पत्राई चेंबर्स, एम.एच नं. ३५४ए, काप-कनेरी, भिवंडी, जि. ठाणे ४२१ ३०२.

(२०) उल्हासनगर नं. ३, आर. के. टी. कॉलेजजवळ, शिवाजी चौक, ठाणे ४२१ ००३.

(२१) तानिया प्लॅनेट, भालोबा पोलीस स्टेशनसमोर, डी-मार्ट जवळ, पापडी रोड, वसई, जि. ठाणे ४०१ २०२.

(२२) कोनाक आर्केड, बिल्डिंग नं. डी, तळमजला, घर्डा सर्कल, डोंबिवली स्पोर्ट कॉम्प्लेक्स ग्राऊंड, डोंबिवली (पू.), ठाणे ४२१ २०४.

(८) कर्मचाऱ्यांना राष्ट्रीय व सणाच्या सुट्ट्या देण्यात याव्यात.

(९) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून तीन वर्षांच्या कालावधीकरिता लागू राहील.

(१०) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.

(११) वरील अटी व शर्तींव्यतिरिक्त अधिनियमातील इतर तरतुदी आस्थापनेस यथास्थिती लागू राहतील.

(१२) वरीलपैकी कोणत्याही अटीचा व शर्तीचा भंग झाल्यास सूट आपोआप रद्द होईल. ”

(२३) पाम बीच गॅलेरिया मॉल,
पाम बीच रोड, वाशी, नवी मुंबई.

(२४) लिटल वर्ल्ड मॉल, दुसरा मजला,
प्लॉट नं. २१, सेक्टर २, खारघर,
पनवेल.

(२५) ३१२/टीपीएस १, लिला महादेव संकुल,
जुना पुणे-मुंबई महामार्ग,
पनवेल एस. टी. डेपोजवळ,
पनवेल.

(२६) काळे प्लाझा, ६३/२, बी/६४, पार्वती,
शारदा आर्केडसमोर, पुणे-सातारा रोड,
पुणे ४११ ००९.

(२७) पेटीट इस्टेट, साधु वासवानी चौक,
भवेरिया मोटर्सजवळ, पुणे ४११ ००१.

(२८) अमर मनेर, क्रोम फर्निचर बिल्डिंग,
पुणे-सोलापूर रोड, हडपसर,
पुणे ४११ ०१३.

(२९) प्राईड परपल ॲकॉर्ड,
महाबळेश्वर हॉटेलच्या पुढे, सिनेटिक
बिल्डिंगसमोर, आर ॲण्ड झेड
आयकॉन, बानेर रोड, बानेर,
पुणे ४११ ०४५.

(३०) सीबी/२/००१, एम्पायर इस्टेट,
जुना पुणे-मुंबई महामार्ग, रंका
ज्वेलर्सजवळ, पिंपरी-चिंचवड,
पुणे ४११ ०१९.

(३१) स्वराज्यअर्थ, प्लॉट नं. ४,
सर्व्हे नं. १२८/२०, पौड रोड,
कोथरूड, पुणे ४११ ०३८.

(३२) प्लॉट नं. ९, सर्व्हे नं. ४८/२,
प्रभाकर हाईट्स, चाटे क्लासेसच्या
खाली, रुपी बँकेजवळ, पुणे-नगर रोड,
चंदननगर, खर्डी, पुणे ४११ ०१४.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अ. म. बाविस्कर,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 08/2012/C.R. 209/LAB-10, dated the 14th August 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 14th August 2013

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 08/2012/C.R. 209/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Bom. LXXIX of 1948) hereinafter referred to as the said Act the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry " 618 " the following Entry shall be added, namely :—

" 619 (1) **Head office.—**
M/s. Vijay Sales, V Mall, 3rd Floor, Near Thakur Complex, Kandivali (E.), Mumbai 400 101.

Following Shops.—

(2) 384, Veer Savarkar Marg, Opp. Siddhivinayak Temple, Prabhadevi, Dadar (W.), Mumbai 400 025.

(3) 108 Lady Jamshedji Road, Near Victoria Church, Mahim, Mumbai 400 016.

(4) Prime Centre, 18, S. V. Road, Santacruz (W.), Mumbai 400 054.

(5) 1, Abhishek, Plot No. 65, S. V. Road,Andheri (W.), Mumbai 400 058.

(6) Infinity Mall, 1st Floor, Lokhandwala, New Link Road, Andheri (W.), Mumbai 400 053.

(7) The Hub, Western Express Highway, Goregaon (E.), Mumbai 400 063.

Section 18 subject to the following condition :—

(1) Every employee shall be given one day holiday in a week without making any deductions from his/her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.

(2) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 11 hours in a day.

(3) Every employee shall be given a rest period of one hour after 5 hours of continuous work.

(4) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.

(5) Female employees shall be provided separate lockers and rest rooms at the work place.

(6) The establishment shall not remain open after 10.30 pm. on any day.

(7) Female employees will not be allowed to work after 9.30 p.m.

(8) Employees shall be given national and festival holidays.

(8) Opp. Filmstan Studio, S. V. Road, Goregaon (W.), Mumbai 400 062.

(9) Inorbit Mall, 2nd Floor, Inside Home Stop,New Link Road, Malad (W.), Mumbai 400 064.

(10) Plot No. 57/2, S. V. Road, Nr. Flyover, Borivali (W.), Mumbai 400 092.

(11) 19, Mama Parmanand Road, Opera House, Mumbai 400 004.

(12) Indrapuri Society, Sion Circle, Sion, Mumbai 400 022.

(13) Bezzola Complex, Sion-Trombay Road, Chembur, Mumbai 400 071.

(14) Opp. Shreyas Cinema, L.B.S. Marg, Ghatkopar (W.), Mumbai 400 086.

(15) Tip Top Plaza, L. B. S. Marg, Thane (West).

(16) Opp. Wonder Mall, Ghodbunder Road, Thane (West).

(17) Savta Mali Vagetable Market, Santoshi Mata Mandir Road, Kalyan (West).

(18) Silver Park, Mira-Bhayandar Road, Mira Road (E.), Dist. Thane.

(19) Ground Floor, Manipatrai Chembers, M. H. No. 345A, Kap-Kaneri, Bhiwandi, Thane 421 302.

(20) Ulhasnagar No. 3, Near RKT College, Shivaji Chowk, 421 003.

(21) Tania Planet, Opp. Bhaloba Police Station, Near D Mart, Papdi Road, Vasai, Dist. Thane 401 202.

(9) This exemption shall remain in operation for the period of three years from the date of notification published in *Government Gazette*.

(10) This exemption is related only to Bombay Shops and Establishment Act, 1948.

(11) Inspite of these terms and conditions, all the provisions of this Act shall applicable to the establishment duly.

(12) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

(22) Konak Arcade,
Building No. D, Gr. Flr.,
Gharda Circle, Dombivali
Sport Complex Ground,
Dombivali (E.),
Dist. Thane 421 204.

(23) Palm Beach Galleria,
Palm Beach Road, Vashi,
Navi Mumbai.

(24) Little World Mall, 2nd Flr.,
Plot No. 21, Sector-2,
Kharghar, Panvel.

(25) 312/TPS 1, Leela Mahadev
Complex, Old Pune-Mumbai
Highway, Near Panvel S. T.
Depot., Panvel.

(26) Kale Plaza, 63/2, B/64 Parvati,
Opp. Sharda Arcade, Pune-
Satara Road, Pune 411 009.

(27) Petit Estate, Sadhu Waseani
Chowk, Near Bhaveria
Motors, Pune 411 001.

(28) Amar Mane, Crome Furni-
ture Building, Pune-Solapur
Road, Hadapsar, Pune 411
013.

(29) Prime Purpal Accord,
Next to Hotel Mahableshwar,
Opp. Sinnetic Building,
R. And Z Icon, Baner Road,
Baner, Pune 411 045.

(30) C.B/2/001, Empire Estate,
Old Pune-Mumbai Highway,
Near Ranka Jwellers,
Pimpari-Chinchwad,
Pune 411 019.

(31) Swaraj Arth, Plot No. 4,
Survey No. 128/B, Poud Road,
Kothrud, Pune 411 038.

(32) Plot No. 9, Survey No. 48/2,
Prabhakar Hights, Below
Chate Classes, Near Rupee
Bank, Pune-Nagar Road,
Chandan Nagar, Khardi,
Pune 411 014.

By order and in the name of the Governor of Maharashtra,

A. M. BAWISKAR,
Section Officer.

९४

शुक्रवार, ऑगस्ट १६, २०१३/श्रावण २५, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मंत्रालय विस्तार, हुतात्मा राजगुरु चौक, मादाम कामा रोड,
मुंबई ४०० ०३२, दिनांक १४ ऑगस्ट २०१३.

अधिसूचना

कर्मचारी भविष्यनिर्वाह निधी व संकीर्ण उपबंध अधिनियम, १९५२.

क्रमांक इपीएफ. २०१३/सं.क.३९/प्र.क्र. २०/कामगार-४.— ज्याअर्थी, कर्मचारी भविष्यनिर्वाह निधी व संकीर्ण उपबंध अधिनियम, १९५२ च्या कलम १७(१)(अ) खाली सूट मिळण्यासाठी मे. एस. एच. केळकर आणि कंपनी प्रायव्हेट लिमिटेड, लाल बहादूर शास्त्री मार्ग, मुलुंड, मुंबई ४०० ०८० या आस्थापनेने राज्य शासनाकडे अर्ज केला आहे (यात यापुढे जिचा "उक्त आस्थापना" असा निर्देश करण्यात आला आहे) ;

आणि ज्याअर्थी, केंद्र शासनाच्या मते, उक्त आस्थापनेतील कर्मचाऱ्यांच्या अंशदानाच्या दरांच्या बाबतीत, भविष्यनिर्वाह निधीचे नियम हे, उक्त अधिनियमाच्या कलम ६ मध्ये विर्निदिष्ट केलेल्या दरांपेक्षा कमी अनुकूल नाहीत आणि कर्मचाऱ्यांना भविष्यनिर्वाह निधीचे अन्य लाभही तशाच स्वरूपाच्या अन्य कोणत्याही आस्थापनेतील कर्मचाऱ्यांच्या संबंधात, उक्त अधिनियमाखाली किंवा कर्मचारी भविष्यनिर्वाह निधी योजना, १९५२ (यात यापुढे जिचा निर्देश "उक्त योजना" असा करण्यात आला आहे), याखाली त्या कर्मचाऱ्यांना मिळत असलेल्या लाभांपेक्षा एकंदरीत कमी अनुकूल नाहीत ;

त्याअर्थी, आता, कर्मचारी भविष्यनिर्वाह निधी व संकीर्ण उपबंध अधिनियम, १९५२ च्या कलम १७(१)(अ) द्वारे प्रदान करण्यात आलेल्या अधिकारांचा वापर करून, आणि यासोबत जोडलेल्या अनुसूचीमध्ये विनिर्दिष्ट केलेल्या शर्तींच्या अधीनतेने, राज्य शासन, याद्वारे, उक्त आस्थापनेस उक्त योजनेच्या सर्व तरतुदींचे प्रवर्तन करण्यातून दिनांक १ मार्च १९९४ पासून पूर्वलक्षी प्रभावाने सूट देत आहे.

अनुसूची

(१) उक्त आस्थापनेच्या संबंधातील नियोक्ता महिन्या अखेरीपासून पंधरा दिवसांच्या आत, उक्त अधिनियमांच्या कलम १७, पोट-कलम (३) खंड (क) अन्वये, केंद्र शासन, वेळोवेळी निदेश देईल, त्याप्रमाणे तपासणी करण्याची सुविधा उपलब्ध करून देण्याची आणि तपासणी खर्च देण्याची तरतूद करील.

(२) या आस्थापनेच्या भविष्यनिर्वाह निधीनियमांखाली देय असलेला अंशदानाचा दर हा, सूट देण्यात न आलेल्या आस्थापनांच्या बाबतीत उक्त अधिनियमांन्वये आणि त्याखाली तयार करण्यात आलेल्या उक्त योजनेन्वये कोणत्याही परिस्थितीत कमी असणार नाही.

(३) आगाऊ रकमांच्या बाबतीत, सूट देण्यात आलेल्या आस्थापनेची योजना ही, कर्मचारी भविष्यनिर्वाह निधी योजना, १९५२ पेक्षा कमी अनुकूल असणार नाही.

(४) उक्त योजनेतील कोणतीही सुधारणा ही, आस्थापनेच्या विद्यमान नियमांपेक्षा कर्मचाऱ्यांना अधिक लाभप्रद असल्यास, ती आपोआप लागू करण्यात येईल. उक्त आस्थापनेच्या भविष्यनिर्वाह निधी-नियमांतील कोणतीही सुधारणा ही, प्रादेशिक भविष्यनिर्वाह निधी आयुक्तांच्या पूर्वमान्यतेशिवाय केली जाणार नाही आणि कोणत्याही सुधारणेमुळे उक्त आस्थापनेतील कर्मचाऱ्यांच्या हितास बाधा पोहोचण्याचा संभव असल्यास, प्रादेशिक भविष्यनिर्वाह निधी आयुक्त मान्यता देण्यापूर्वी, कर्मचाऱ्यांस त्यांची बाजू स्पष्ट करण्याची वाजवी संधी देईल.

(५) उक्त आस्थापनेत सूट देण्यात आली नसती तर [उक्त अधिनियमाच्या कलम २(च) मध्ये व्याख्या केल्याप्रमाणे] भविष्यनिर्वाह निधीचे सदस्य होण्यास पात्र ठरले असते. त्या सर्व कर्मचाऱ्यांची सदस्य म्हणून नोंदणी करण्यात येईल.

(६) कर्मचारी अगोदरच, कर्मचारी भविष्यनिर्वाह निधी (सांविधिक) किंवा अन्य कोणत्याही सूट देण्यात आलेल्या आस्थापनेच्या भविष्यनिर्वाह निधीचा सदस्य असल्यास, सेवा नियोक्ता, निधीचा सदस्य म्हणून लगेचच त्याचे नाव नोंदवील आणि अशा कर्मचाऱ्यांच्या पूर्वीच्या नियोक्त्याकडील त्याच्या भविष्यनिर्वाह लेख्यातील संचयित रक्कम हस्तांतरित करण्याची आणि ती रक्कम त्याच्या खात्यात जमा करण्याची व्यवस्था करील.

(७) नियोक्ता, केंद्रीय भविष्यनिर्वाह निधी आयुक्त किंवा यथास्थित, केंद्र शासन, वेळोवेळी, देऊ शकेल अशा निर्देशांनुसार भविष्यनिर्वाह निधीच्या व्यवस्थापनासाठी विश्वस्त मंडळाची स्थापना करील.

(८) भविष्यनिर्वाह निधी विश्वस्त मंडळाकडे विहित असेल व कर्मचारी भविष्यनिर्वाह निधीच्या संघटनासाठी त्याबरोबरच भविष्यनिर्वाह निधीत जमा होणारी रक्कम आणि भविष्यनिर्वाह निधीतून केलेली प्रदाने आणि त्याच्या अभिरक्षेतील शिल्लक रकमा यांचा योग्य जमा-खर्च ठेवण्यासाठी जबाबदार असेल आणि त्यासाठी उत्तरदायी असेल.

(९) प्रत्येक तीन महिन्यांतून किमान एकदा विश्वस्त मंडळाची बैठक बोलावण्यात येईल आणि केंद्र शासन/केंद्रीय भविष्यनिर्वाह निधी आयुक्त किंवा त्याने प्राधिकृत केलेला अधिकारी यांनी जारी केलेल्या मार्गदर्शक तत्त्वांनुसार त्याचे काम चालेल.

(१०) विश्वस्त मंडळाने ठेवलेल्या भविष्यनिर्वाह निधीचे लेखे, दरवर्षी, अर्हताप्राप्त स्वतंत्र सनदी लेखापालाकडून लेखापरीक्षा केली जाण्यास अधीन असतील, केंद्रीय भविष्यनिर्वाह निधी आयुक्तास आवश्यक वाटेल तेव्हा लेख्यांची अन्य कोणत्याही अर्हताप्राप्त लेखापरीक्षकांकडून पुन्हा लेखापरीक्षा करवून घेण्याचा अधिकारी असेल आणि त्यासाठी करण्यात आलेला खर्च नियोक्त्याकडून उचलला जाईल.

(११) वित्तीय वर्षाच्या समाप्तीनंतर सहा महिन्यांच्या आत, प्रत्येक लेखावर्षातील लेखापरीक्षेत वार्षिक भविष्यनिर्वाह निधी लेख्यांची एक प्रत आस्थापनेच्या लेखापरीक्षित ताळेबंदासह, प्रादेशिक भविष्यनिर्वाह निधी आयुक्ताकडे सादर करण्यात येईल. या प्रयोजनार्थ, भविष्यनिर्वाह निधीचे वित्तीय वर्ष १ एप्रिल ते ३१ मार्च असे असेल.

(१२) नियोक्ता त्याच्याकडून आणि कर्मचाऱ्याकडून देय असलेले भविष्यनिर्वाह निधीचे अंशदान, ज्या महिन्याचे अंशदान देय असेल त्यापुढील प्रत्येक महिन्याच्या १५ तारखेपर्यंत विश्वस्त मंडळाकडे हस्तांतरित करील. अंशदान भरण्यास कोणताही विलंब झाल्यास नियोक्ता तशाच प्रकारच्या परिस्थितीमध्ये सूट न मिळालेली आस्थापना ज्या रितीने हानीची रक्कम भरण्यास पात्र असते, त्याच रितीने विश्वस्त मंडळाकडे हानीची रक्कम भरण्यास पात्र असेल.

(१३) शासनाकडून वेळोवेळी देण्यात आलेल्या निर्देशांनुसार, विश्वस्त मंडळ, निधीमधील पैशांची गुंतवणूक करील. विश्वस्त मंडळाच्या नावाने रोखे काढण्यात येतील आणि ते भारतीय रिझर्व्ह बँकेच्या पत नियंत्रणाखालील अनुसूचित बँकांच्या अभिरक्षेत ते ठेवण्यात येतील.

(१४) शासनाच्या निदेशानुसार गुंतवणूक करण्यात कसूर केल्यास, विश्वस्त मंडळ, केंद्रीय भविष्यनिर्वाह निधी आयुक्त किंवा त्यांचा प्रतिनिधी यांच्याकडून पृथःकपणे आणि संयुक्तपणे अधिभार लादला जाण्यास पात्र ठरेल.

(१५) विश्वस्त मंडळ लिखित नोंदवही ठेवील आणि व्याजाची वसुली व पूर्वीचे विमोचन वेळेवर होत असल्याची खातरजमा करील.

(१६) विश्वस्त मंडळ प्रत्येक कर्मचाऱ्यांच्या बाबतीत, त्यांनी जमा केलेले अंशदान आणि त्यातून काढलेल्या रकमा व व्याज दर्शविणारे तपशीलवार लेखे ठेवील.

(१७) मंडळ वित्तीय लेखांकन वर्षाच्या समाप्तीपासून सहा महिन्यांच्या आत, प्रत्येक कर्मचाऱ्यास, वार्षिक लेखा विवरणपत्र देईल.

(१८) मंडळाला, प्रत्येक कर्मचाऱ्यास वार्षिक लेखा विवरणपत्राऐवजी पासबुक देता येईल. ही पासबुके कर्मचाऱ्यांच्या ताब्यात असतील आणि कर्मचाऱ्याने ती सादर केल्यानंतर, मंडळ ती अद्ययावत भरून देईल.

(१९) प्रत्येक कर्मचाऱ्याच्या खात्यामध्ये, लेखांकन वर्षाच्या पहिल्या दिवशीच्या प्रारंभिक शिल्लक रकमेवर विश्वस्त मंडळ ठरवील अशा दराने काढण्यात आलेले व्याज जमा करण्यात येईल. मात्र हा दर, उक्त योजनेच्या परिच्छेद ६० खाली केंद्र शासनाने जाहीर केलेल्या दरापेक्षा कमी असणार नाही.

(२०) गुंतवणुकीवरील प्राप्ती कमी झाल्यामुळे किंवा अन्य कोणत्याही कारणामुळे केंद्र शासनाने जाहीर केलेल्या दराने व्याज देण्यास विश्वस्त मंडळ असमर्थ असल्यास, ही कमतरता नियोक्ता भरून काढील.

(२१) नियोक्ता चोरी, घरफोडी, अफरातफर, दुर्विनियोग किंवा अन्य कोणतेही कारण यांमुळे भविष्यनिर्वाह निधीची झालेली कोणतीही हानी भरून काढील.

(२२) केंद्र शासन/केंद्रीय भविष्यनिर्वाह निधी आयुक्त वेळोवेळी विहित करील अशी विवरणपत्रे नियोक्ता तसेच विश्वस्त मंडळ प्रादेशिक भविष्यनिर्वाह निधी आयुक्तांकडे सादर करील.

(२३) योजनेच्या परिच्छेद ६९ च्या आधारे, कर्मचारी निधीचा सदस्य असणे बंद होईल त्याबाबतीत, नियोक्त्यांचे अंशदान समाप्त करण्याची तरतूद आस्थापनेच्या भविष्यनिर्वाह निधी नियमांमध्ये करण्यात आली असल्यास, विश्वस्त मंडळ अशा समाप्त रकमेचा हिशेब स्वतंत्रपणे ठेवील आणि केंद्रीय भविष्यनिर्वाह निधी आयुक्तांची पूर्वमान्यता घेऊन तो निर्धारित करील अशा प्रयोजनांसाठी तो उपयोगात आणील.

(२४) आस्थापनेच्या भविष्यनिर्वाह निधी नियमांमध्ये काहीही अंतर्भूत असले तरी, आस्थापनेचा कर्मचारी असण्याचे बंद झाल्यामुळे कोणत्याही सदस्यास, कर्मचारी व नियोक्ता यांचे अंशदान अधिक त्यावरील व्याजासह, उपदान किंवा निवृत्तिवेतन नियम यांखाली देय असलेली कोणतीही रक्कम ही, तो जर, उक्त योजनेखाली भविष्यनिर्वाह निधीचा सदस्य असता तर त्याला कर्मचारी व नियोक्त्याचे अंशदान अधिक त्यावरील व्याज या पोटी जितकी रक्कम देय झाली असती त्या रकमेपेक्षा कमी असल्यास, तिच्यातील तफावतीची रक्कम नुकसानभरपाई किंवा विशेष अंशदान म्हणून नियोक्ता भरील.

(२५) लेखे ठेवणे, विवरणपत्रे सादर करणे, संचित रक्कम हस्तांतरित करणे यांसह, भविष्यनिर्वाह निधीचा व्यवहार चालविताना होणारे सर्व खर्च नियोक्ता करील.

(२६) नियोक्ता, समुचित प्राधिकाऱ्याने मान्यता दिलेल्या निधीच्या नियमांची एक प्रत आणि त्यात जसजशा सुधारणा करण्यात येतील त्या सुधारणा, जास्तीत जास्त कर्मचाऱ्यांना समजेल अशा भाषेमध्ये भाषांतरित केलेल्या त्यातील ठळक मुद्यांसह आस्थापनेच्या सूचना फलकावर लावील.

(२७) समुचित शासनास, आस्थापनेला देण्यात आलेली सूट चालू ठेवण्यासाठी आणखी कोणत्याही शर्ती घालता येतील.

(२८) नियोक्ता, ज्या आस्थापनावर्गात त्याची आस्थापना येते त्या वर्गासाठी असलेल्या भविष्यनिर्वाह निधीच्या अंशदानाच्या दरात उक्त अधिनियमांन्वये वाढ करण्यात आल्यास, भविष्यनिर्वाह निधीच्या अंशदानाच्या दरात योग्य ती वाढ करील, जेणेकरून उक्त अधिनियमांन्वये मिळणारे लाभ मिळू शकतील

(२९) वरीलपैकी कोणत्याही शर्तींचा भंग करण्यात आल्यास, देण्यात आलेली सूट रद्द केली जाण्यास पात्र असेल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

रविकुमार पाटणकर,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. EPF. 20132/R.N.39/C.R. 20/LAB-4, dated the 14th August 2013 is hereby published under the authority of the Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

B.S.KOLSE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya Annexe, Hutatma Rajguru Chowk, Madam Cama Road,
Mumbai 400 032, dated the 14th August 2013.

NOTIFICATION

EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952.

No. EPF. 20132/R.N. 39/C.R. 20/Lab-4.—Whereas, M/s. S.H.Kelkar and Co. Pvt. Ltd. Lal, Bahadur Shastri Marg, Mulund, Mumbai 400 080 (hereinafter referred to as the said establishment), who has applied for exemption under clause 17(1)(*a*) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the said Act") ;

AND WHEREAS, in the opinion of the Central Government, the rules of the Provident Fund of the said establishment with respect to the rates of contribution are not less favourable to the employees therein that those specified in Section 6 of the said Act and the empoyees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as "the said Scheme") in relation to the employees in any other etablishment of a similar character ;

NOW THEREFORE in excercise of the powers conferred by clause 17(1)(*a*) of the said Act and subject to the conditions specified in the Schedule annexed hereto, the State Government hereby exempts the said establishment from the operation of all the provisions of the said Act with effect from 1st March 1994 ;

Schedule

(*1*) The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under Clause (*a*) of sub-section (*3*) of section 17 of the said Act within 15 days from the close of every month.

(*2*) The rate of contribution payable under the provident fund rules of the establishment shall at no time be lower than those payable under the said Act in respect of the unexempted establishment and the said Scheme framed thereunder.

(*3*) In the matter of advance, the scheme of the exempted establishment shall not be less favourable than the Employees' Provident Fund Scheme, 1952.

(*4*) Any amendment to the said Scheme which is more beneficial to the employees than the existing rule of the establishment shall be made applicable to them automatically. No amendment to the rules of the Provident Fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment, the Regional Provident Fund Commissioner shall before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

(*5*) All employees [as defined in section 2(*f*) of the said Act] who would have been eligible to become members of the Provident Fund, had the establishment not been granted exemption shall be enrolled as members.

(*6*) Where an employee who is already a member of Emoloyees' Provident Fund (Statutory) or a Provident Fund of any other exempted establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited to his account.

(*7*) The employer shall establish a Board of Trustees for the management of the Provident Fund according to such directions as may he given by the Central Provident Fund Commissioner or by the Central Government, as the case may be from time to time.

(*8*) The Provident Fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees Provident Fund organization *inter-alia* for proper accounts of the receipts into and payments from the Provident Fund and the balance in their custody.

(*9*) The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/ Central Provident Fund Commissioner or an officer authorized by him.

(*10*) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be home by the employer.

(*11*) A copy of the audited annual Provident Fund accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose the financial year of the Provident Fund shall be from 1st of April to the 31st March.

(*12*) The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay Damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an unexempted establishment is liable under similar circumstances.

(*13*) The Board of Trustees shall invest the money in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of a Scheduled Bank under the Credit Control of the Reserve Bank of India.

(*14*) Failure to make the investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

(*15*) The Board of Trustees shall maintain a script-wise register and ensure timely realization of interest and redemption proceeds.

(*16*) The Board of Trustees shall maintain detailed accounts to show the contribution credited, withdrawal and interest in respect of each employee.

(*17*) The Board shall issue an annual statement of account to every employee within six months of the close of financial/accounting year.

(*18*) The Board may, instead of the annual statement of account issue passbooks to every employee. Those passbooks shall remain in the custody of the employees and shall be brought upto date, by the Board on presentation by the employees.

(*19*) The account of each employee shall be credited with interest calculated on the opening balance as on the 1st day of the accounting year at such rate as may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under para 60 of the said Scheme.

(*20*) If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason, than the deficiency shall be made good by the employer.

(*21*) The employer shall also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, mis-appropriation or any other reason.

(*22*) The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner may prescribe from time to time.

(*23*) If the Provident Fund rules of the establishment provide for forfeiture of the employers' contributions in cases where an employee ceases to be a member of the fund on the lines of para 69 of the Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilise the same for such purpose as may be determined with the prior approval of the Central Provident Fund Commissioner.

(*24*) Notwithstanding anything contained in the rules of the Provident Fund of the establishment, if the amount payable to any member upon his ceasing to be an employee of the establishment by way of employer and employees' contribution plus interest thereon taken together with the amount, if any payable under the Gratuity or Pension rules be less than the amount that would he payable as employer's and employees' contributions plus interest thereon if he were a member of the Provident Fund under the said Scheme, the employer shall pay the difference to the member as compensation or special contribution.

(*25*) The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of accounts, submission of returns, transfer of accumulations.

(*26*) The employer shall display on notice board of the establishment, a copy of the rules of the fund as approved by the appropriate authority and as and when amended thereto alongwith a translation of the salient points thereof in the language of the majority of the employees.

(*27*) The "Appropriate Government" may lay down any further conditions for continued exemption of the establishment.

(*28*) The employer shall enhance the rate of Provident Fund contributions appropriately if the rate of Provident Fund conrtibution for the class of establishments in which his establishment falls is enhanced under the said Act so that the benefits provided under the said Act.

(*29*) The exemption is liable to be cancelled for violation of any of the above conditions.

By order and in the name of the Governor of Maharashtra,

RAVEEKUMAR PATANKAR,
Desk Officer.

९५

सोमवार, ऑगस्ट १९, २०१३/श्रावण २८, शके १९३५

उद्योग, ऊर्जा व कामगार विभाग

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मंत्रालय,
मुंबई ४०० ०३२, दिनांक १९ ऑगस्ट २०१३

अधिसूचना

महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८.

क्रमांक बीएसई. ११/२०१२/प्र.क्र. २८४/कामगार-१०.—महाराष्ट्र दुकाने व आस्थापना अधिनियम, १९४८ (१९४८ चा मुंबई एकोणऐंशी) (यात यापुढे ज्याचा " उक्त अधिनियम " असा उल्लेख करण्यात आलेला आहे) याच्या कलम ४ च्या परंतुकाद्वारे प्रदान करण्यात आलेल्या अधिकाराचा वापर करून, महाराष्ट्र शासन याद्वारे, उक्त अधिनियमाच्या अनुसूची दोन मध्ये खालीलप्रमाणे सुधारणा करीत आहे :—

उक्त अधिनियमाच्या अनुसूची दोन मधील क्रमांक " ६१९ " नंतर खालील नोंदीचा समावेश करण्यात येईल :—

" ६२० मे. ट्रेन्ट लि.—बॉम्बे हाऊस,
२४, होमी मोदी स्ट्रीट,
मुंबई ४०० ००१ यांची
खालील दुकाने :—

(१) आर्मी ॲण्ड नेव्ही बिल्डिंग,
तळमजला, काला घोडा, १४८,
महात्मा गांधी रोड, मुंबई ४०० ००१.

(२) ३९, एन. एस. पालकर मार्ग,
मुंबई ४०० ००७.

(३) इनफिनिटी, रहेजा क्लासिक कॉम्प्लेक्स,
ओशिवारा-अंधेरी लिंक रोड,
अंधेरी (प.), मुंबई ४०० ०५८.

(४) लेव्हल वन, हैको मॉल,
सेंट्रल ॲव्हेन्यु, हिरानंदानी गार्डन,
पवई, मुंबई ४०० ०७६.

(५) दुकान नं. जी-६७, तळमजला,
आर. सिटी मॉल, एलबीएस मार्ग,
घाटकोपर (प.), मुंबई ४०० ०८६.

उक्त अधिनियमाच्या कलम ११ व कलम १८ मधून खालील शर्तीच्या अधीन राहून,—

(१) सदर सूट ही **शासन राजपत्रात** अधिसूचना प्रसिद्ध झाल्याच्या दिनांकापासून एक वर्षाच्या कालावधीकरिता लागू राहील.

(२) आस्थापना कोणत्याही दिवशी रात्री १०-३० वा. नंतर उघडी राहणार नाही.

(३) प्रत्येक कर्मचाऱ्यास त्याच्या वेतनातून कुठल्याही प्रकारची कपात न करता आठवड्यातून एक दिवस भरपगारी सुट्टी देण्यात यावी व सुट्टीसंबंधीचे प्रत्येक महिन्याचे वेळापत्रक सूचना फलकावर आगाऊ लावण्यात यावे.

(४) कर्मचाऱ्यास दररोज ९ तास किंवा आठवड्यामध्ये ४८ तासांपेक्षा जास्त काम करणे आवश्यक असणार नाही व दररोजच्या कामाची व्याप्ती १२ तासांपेक्षा जास्त असणार नाही.

(५) प्रत्येक कर्मचाऱ्यास सलग पाच तास काम केल्यावर एक तासाची विश्रांती देण्यात यावी.

(६) कोणत्याही कर्मचाऱ्यास त्याच्या अतिकालिक कामाबद्दल कलम ६३ मध्ये विहित केलेल्या दराने अधिक वेतन देण्यात यावे.

(६) इनफिनिटी मॉल, युनिट नं. ००१/१०१, रंजन पाडा, इजिम्मा सर्व्हिस रोड, लिंकींग रोड, मालाड (प.), मुंबई ४०० ०६४.

(७) इनऑर्बिट मॉल, सेक्टर ३०-ए, वाशी, नवी मुंबई ४०० ७०५.

(८) अपर ग्राऊंड फ्लोअर, कोरम मॉल, कॅडबरी कंपाऊंड, मंगल पांडे रोड, ठाणे (प.) ४०० ६०६.

(९) सिटी सेंटर मॉल, प्लॉट नं. ११७-१३३, त्रिबंक रोडसमोर, लवाटेनगर, उंटवाडी रोड, नाशिक.

(१०) काकडे मॅगनम मॉल, २३१, मॉलेडिना रोड, कॉफी हाऊससमोर, कॅम्प, पुणे ४११ ००१.

(११) काकडे वनसेंटर, एस नं. १३२/ए-२-१, सीटीएस नं. २६८७बी, शिवाजीनगर, युनिव्हर्सिटी रोड, पुणे ४११ ००५.

(१२) युजी-२५, फिनिक्स मार्केट, सिटी सर्व्हे नं. २०७, बेकर गॉजेसमागे, टायको इलेक्ट्रॉनिक्सच्या पुढे, विमाननगर, नगर रोड, पुणे ४११ ०१४.

(१३) लँडमार्क कॉम्प्लेक्स, रामदास पेठ, वर्धा रोड, नागपूर ४४० ०१२.

(१४) प्रोझोन मॉल, प्लॉट नं. ८०, चिखलठाणा इंडस्ट्रीयल एरिया, मसनतपूर, औरंगाबाद ४३१ ००१.

(१५) दुकान नं. जी-०७, इनऑर्बिट मॉल, मालाड (प.), मुंबई ४०० ०६४.

(१६) युनिट नं. एफ ३, पॅलाडियम, फिनिक्स मिल्स कंपाऊंड, ४६२, सेनापती बापट मार्ग, लोअर परेल, मुंबई ४०० ०१३.

(७) महिला कर्मचाऱ्यांसाठी स्वतंत्र लॉकर, सुरक्षा व विश्रांतीगृह यांची व्यवस्था करण्यात यावी.

(८) महिला कर्मचाऱ्यांना त्यांच्या निवासस्थानापासून आस्थापनेपर्यंत व परतीसाठी सुरक्षारक्षकासह मोफत वाहनाची व्यवथा करण्यात येईल.

(९) आठवड्याच्या व इतर सुट्टीच्या दिवशी संमतीपत्र दिलेल्या कर्मचाऱ्यांनाच कामावर ठेवण्यात यावे.

(१०) महिला कर्मचाऱ्यांना रात्री ९-३० वा. नंतर कार्यरत ठेवता येणार नाही.

(११) कर्मचाऱ्यांना राष्ट्रीय व सणाच्या सुट्ट्या देण्यात याव्यात.

(१२) सदर सूट ही मुंबई दुकाने व आस्थापना अधिनियम, १९४८ पुरतीच मर्यादित आहे.

(१३) वरील अटी व शर्तींव्यतिरिक्त अधिनियमातील इतर तरतूदी आस्थापनेस यथास्थिती लागू राहतील.

(१४) वरीलपैकी कोणत्याही अटींचा व शर्तींचा भंग झाल्यास सूट आपोआप रद्द होईल. ”

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

अ. म. बाविस्कर,
कार्यासन अधिकारी.

In pursuance of Clause (3) of Article 348 of the Constitution of India, the following translation in English of the Government Notification, Industries, Energy and Labour Department, No. BSE. 11/2012/C.R. 284/LAB-10, dated the 19th August 2013 is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BALASAHEB KOLASE,
Joint Secretary to Government.

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Madam Cama Road, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032, dated the 19th August 2013

NOTIFICATION

MAHARASHTRA SHOPS AND ESTABLISHMENT ACT, 1948.

No. BSE. 11/2012/C.R. 284/Lab-10.—In exercise of the powers conferred by the proviso to Section 4 of the Maharashtra Shops and Establishment Act, 1948 (Bom. LXXIX of 1948) hereinafter referred to as the said Act the Government of Maharashtra hereby amends Schedule II of the said Act as follows, namely :—

In Schedule II of the said Act, after entry " 619 " the following entry shall be added namely :—

" 620 The following shops of M/s. Trent Ltd., Bombay House, 24, Homi Mody Street, Mumbai 400 001 :—

(1) Army and Nevy Bldg., Ground Floor, Kala Ghoda, 148, Mahatma Gandhi Road, Mumbai 400 001.

(2) 39, N. S. Patkar Marg, Mumbai 400 007.

(3) Infiniti Raheja Classic Complex, Oshiwara-Andheri Link Road, Andheri (W.), Mumbai 400 058.

(4) Level One, Haiko Mall, Central Avenue, Hiranandani Garden, Powai, Mumbai 400 076.

(5) Shop No. G-67, Ground Floor, R City Mall, L.B.S. Marg, Ghatkopar (W.), Mumbai 400 086.

(6) Infinity Mall, Unit No. 001/ 101, Ranjan Pada, Ijimma Service Road, Linking Road, Malad (W.), Mumbai 400 064.

Section 11 and 18 subject to the following conditions :—

(1) This exemption shall remain in operation for the period of one year from the date of Notification published in *Government Gazette*.

(2) The establishment shall not remain open after 10.30 pm. on any day.

(3) Every employee shall be given one day holiday in a week without making any deduction from his/ her wages on account thereof and list of the time table of such holidays for a month shall be placed on the notice board in advance.

(4) No employee shall be required to work for more than 9 hours in a day or 48 hours in a week. The spread over of an employee shall not exceed 12 hours in a day.

(5) Every employee shall be given a rest period of one hour after 5 hours of continuous work.

(6) The employees shall be entitled to overtime wages in accordance with Section 63 of the said Act.

(7) Female employees shall be provided separate lockers and rest rooms at the work place.

(8) The female employees shall be provided escorted transport facility from resident to establishment and return.

(7) Inorbit Mall, Sector-30-A, Vashi, Navi Mumbai 400 705.

(8) Upper Ground Floor, Korum Mall, Cadbury Compound, Mangal Pandey Road, Thane (W.) 400 606.

(9) City Centre Mall, Plot No. 117-133, Opp. Trimbak Road, Lawate Nagar, Untwadi Road, Nashik.

(10) Kakade Magnum Mall, 231, Moledina Road, Opp. Coffee House, Camp, Pune 411 001.

(11) Kakade Onecentre, S. No. 132/A-2-1, CTS No. 2687B, Shivaji Nagar, University Road, Pune 411 005.

(12) UG-25, Phoenix Market, City Survey No. 207, Behind Baker Guages, Next to Tyco Electronics, Viman Nagar, Nagar Road, Pune 411 014.

(13) Landmark Complex, Ramdas Peth, Wardha Road, Nagpur 440 012.

(14) Prozone Mall, Plot No. 80, Chikalthana Industrial Area, Masanatpur, Aurangabad 431 001.

(15) Shop No. G-07, Inorbit Mall, Malad (W.), Mumbai 400 064.

(16) Unit No. F3, Palladium, Phoenix Mills Compound, 462, Senapati Bapat Marg, Lower Parel, Mumbai 400 013.

(9) The employees, who have given their consent be only placed on the day of weekly holiday or other holiday.

(10) Female employees will not be allowed to work after 9.30 p.m.

(11) Employees shall be given national and festival holidays.

(12) This exemption is related only to Bombay Shops and Establishment Act, 1948.

(13) Inspite of these terms and conditions, all the provisions of this Act shall applicable to the establishment duly.

(14) In case of violation of any of the above terms and conditions, the exemption shall stand cancelled automatically."

By order and in the name of the Governor of Maharashtra,

A. M. BAWISKAR,
Section Officer.

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY SHRI PARSHURAM JAGANNATH GOSAVI, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004, EDITOR : SHRI PARSHURAM JAGANNATH GOSAVI.